

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1966

No. 150

THE ASSOCIATED PRESS, PETITIONER,

vs.

EDWIN A. WALKER.

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PROCEEDINGS

REVEREND DUNCAN GRAY, JR. called as a witness by the Defendant, having been first duly sworn, testified as follows, to-wit:

Direct examination.

By Mr. Gooch:

Q. Please state your name.

A. Reverend Duncan Gray, Jr.

Q. Where do you live, Reverend?

A. Oxford, Mississippi.

Q. How long have you lived in Oxford?

A. Since September 1957.

Q. What is your vocation or occupation, please?

A. I am a priest in the Episcopal Church, presently serving as Rector of St. Peters Episcopal Church in Oxford.

Q. How old a man are you, Reverend?

A. Thirty-eight.

Q. Had you lived in Oxford before the time that you mentioned that you went there as a priest?

A. No, sir, I had never lived there before.

Q. Of what state are you a native of?

A. Mississippi.

Q. Where were you raised?

A. I was borned in Camden, Mississippi, raised there and at Columbus and Greenwood, Mississippi, and graduated from high school at Jackson, Mississippi.

Q. Who is your father?

A. Bishop Duncan M. Gray, Episcopal Bishop of the Diocese of Mississippi.

Q. What is your educational background, Reverend?

A. As I said, I graduated from high school at Central High in Jackson, Mississippi. I received a Bachelor of Engineering Degree in Electrical Engineering at Tulane University in New Orleans. And then later I went to

Seminary at the School of Theology, the University of the South, Sewanee, Tennessee; received a BD Degree from there.

Q. BD, is that—a—Bachelor of—

A. Bachelor of Divinity.

Q. Now directing your attention to September 30, 1962, at Oxford, Mississippi, did you have occasion to go on the campus of Ole Miss University sometime on the 30th of September, 1962?

A. Yes, sir, I did, on two occasions.

Q. When was the first occasion, Reverend?

A. The first was around 6:00 p.m., when I received a telephone call, long distance call—

Q. I don't believe you can testify as to any long distance call.

Mr. Watts: That is all right, sir. He may.

Q. All right, go ahead.

[fol. 1539] A. As to the occasion of my going there, the mother of an Ole Miss coed had called. She had been hearing news on radio and television, and asked that I go and get her daughter off the campus and have her spend the night with me.

I went to the campus to Ward Hall, where the coed was living. She was not ready at the time and I went up to the Lyceum Building for some 15 minutes around 6:00—between 6:00 and 6:15.

Q. What did you observe at that time, Reverend?

A. Well, at that time the United States Marshals were already ringing the Lyceum Building, the Mississippi Highway Patrolmen, some of them were standing between the Marshals and the crowd that had gathered there. A crowd of predominantly students, as far as I could tell.

The crowd was out on the grass in the portion that is known as the circle. The Highway Patrolmen were in the street there between the crowd and the Lyceum, at that point.

Q. How long did you remain there on that trip, Reverend?

A. I would say about 15 minutes, before I returned to the dormitory and picked up the coed, who by then was ready, and took her back to my house for the evening.

Q. Now, did you later return to the campus on that date? [fol. 1540] A. Yes, sir, I was back on campus—I think—I crossed the east—the east bridge about 7:50 p.m., went to the home of a faculty member and watched the President's speech on television which I believe began at 8:00 o'clock.

Q. All right. Now, were you on the campus when the tear gas was fired?

A. Well, this home of the faculty member is actually on the campus but I was not down in the portion of the campus where the tear gas was fired, no, sir.

Q. Excuse me, were you out in the area of the circle when the tear gas was fired?

A. No, sir.

Q. About what time did you get on the campus, or get on the circle, if you did get on the circle that evening?

A. It must have been around 8:25, I would estimate, because it certainly was after the President's speech was completed, and it was a few minutes after that before I left the home.

I imagine about 8:25 when I got to the circle.

Q. For what purpose did you go to the circle, Reverend?

A. We had heard that on the—on the radio and television that violence had broken out on the campus. The Reverend Wofford Smith, assistant chaplain at the University and I were together, and we went down to the circle [fol. 1541] to see if we could go and do anything to calm the students down, or to get them to go back to their dormitories.

Q. All right. Now will you give us, as best you can, what you did or what you tried to do in that endeavor.

A. Well, when we first reached the circle the tear gas was fairly heavy at that point, and so Mr. Smith and I

stepped into the "Y" Building first, the YMCA Building on the campus, and which is just on the edge of the circle. We stayed in there a very few minutes, and then came out and, as we did, there was a car moving down University Circle toward University Avenue, going away from the Lyceum. It had what appeared to be a deputy sheriff's insignia on it, and a Harrison County, Mississippi license plate. The car was moving rather slowly because of the people in the street, and we walked up to the car and Mr. Smith asked the man if he were not a law enforcement officer and he said he sure was.

And we asked him if he would help us to try to calm down the students and bring an end to what was going on, and try and bring some order out of the situation.

He said there was nothing he could do, and he drove on.

Q. And then what did you do?

A. After this we moved out into the circle, the part of the circle down toward the Y Building, and began to stop students who were coming down there carrying bricks and [fol. 1542] bottles and pieces of pipe and sticks and whatever. We would stop the students and ask them to give us their weapons, and ask them to return to their dormitories; try to explain to them that what they were doing was wrong, that they were hurting themselves and the University and the community.

Q. Did you seek to enlist the aid of anybody else in that crusade that night, Reverend?

A. Yes, sir, I asked General Edwin Walker to help us.

Q. Where did you first see General Edwin Walker?

A. I first saw him at a point somewhere between the Confederate monument and flagpole.

The Confederate monument is at the east end of the circle away from the Lyceum.

General Walker was there in the circle with a group of men, none of whom appeared to be students. They appeared to be 10 or 12, maybe 15, men with him.

Q. All right. Now had you known prior to that time, or had you heard that General Walker was on the campus?

A. Well, we had heard during the day that he was in Oxford. I understood that he was in the town. Just prior to seeing him I had heard a group of students saying, "Now we have a leader, now we have a leader."

And I had assumed that this was General Walker, although I had not heard his name mentioned.

[fol. 1543] Q. Had you known or heard of General Walker prior to this time?

A. Yes, sir, I had, of course, seen him on television, seen news photographs of him and had read about him certainly in the newspapers.

Q. All right. Now would you give us the gist of the conversation that you might have had with General Walker when you first encountered him there on the campus there that evening?

A. Well, when I first saw him, I walked up to him and asked him to help us try and calm the students down and to put an end to the violence, to ask the students to go back to their dormitories.

Q. Reverend, why did you think that—why did you seek out General Walker for that purpose?

A. Because I knew that he was something of a hero to the students that they identified him with their cause and that I thought a word from him would have a great deal of influence in bringing a stop to what was going on or, at least, moderating it to a considerable extent.

I felt that he could have great influence with many of the students in getting them to call it off and go home.

Q. All right. Now give us the gist of your conversation with General Walker there on that first encounter?

[fol. 1544] A. Well, when I first asked him to speak to the students and to help us bring the rioting to a halt, he said that he was not interested in putting a stop to what was going on.

He said he was there only as an observer and he, also, said that the students have every right to protest.

And I pled with him some more, pointing out to him just what I have said, that I thought he could have a great deal of influence with the students because they did identify him with their cause and he was something of a hero to them. And again he refused. He said he was not interested in stopping it; he was there only as an observer.

I believe at one point he said, "I couldn't stop it if I wanted to, but I don't want to."

Q. Now prior to that time if I may interrupt, you stated that you had approached groups that were carrying these rocks, sticks and bottles, et cetera.

Had you had any measure of success in getting them to drop those articles and some of them leave?

A. Yes, we had had success with a great many of them as far as giving up their weapons were concerned.

The general pattern was, so many of these students seemed to be in something of a daze. We would stop them, [fol. 1545] or I would stop them—Mr. Smith was doing the same thing but we were not all in the same area—asked them for their weapons. Many times they would simply hand them over to us and we would throw them out of the way in the direction of the "Y" Building.

Other times they would simply drop them and respond and cooperate, for the most part, rather well at this point.

Now how many of them actually went back to their dormitories, I don't know, sir, but they did give up their weapons, most of them.

Now there were some who did not. I remember one student in particular with a shovel, he refused to and threatened me with a shovel.

At that point, there were a few in the crowd who did not appear to me to be students. Some of them were young, seemed to be perhaps teen-agers but not dressed as students, and I am certain they are not students. Now these did not respond. They would simply brush on by and we had very little luck with them.

But we did have any number of students give us their weapons or drop them when we asked them to.

Q. All right. Now you have detailed as best you can your first encounter with General Walker. Did you thereafter have an encounter with General Walker?

A. Yes, sir. I didn't finish the first encounter.

[fol. 1546] Q. I'm sorry. Go ahead, sir.

A. After I had asked him twice, I believe it was, to help, he finally asked me, "Who are you?"

• "What are you doing out here anyway?"

Q. Yes, sir?

A. And I told him that I—I gave him my name and I said that I was Rector of the local Episcopal Church; that this was my home, my community; that I was deeply concerned about the damage being done to it and I was out there to put a stop to it; do anything I could to halt the violence and to get as many students as I could to go back to their dormitories.

And at that point he said, "You are the kind of an Episcopal minister that makes me ashamed to be an Episcopalian."

Q. All right. Now thereafter—did you finish?

A. Well, as far as I can tell. As I can recall, that was the last direct exchange with General Walker. I had some further exchanges with the members of the group that was with him at that time.

General Walker walked away soon after that and I started to follow him but several members of the group stopped me and began to argue with me and say that the students had a right to protest; that the Federal Government was violating their liberties and their rights.

[fol. 1547] And there was one man in particular who seemed to be talking more than the others, a young man, perhaps around 30 years of age, dressed in a suit and tie but he had his tie pulled down at this point.

I remember his making reference to his courses in Constitutional Law and to Judicial Procedures and I assumed at the point that he was a lawyer—I certainly couldn't be sure of that, and by the time this conversation had ended, General Walker had disappeared, or at least to my sight, in the direction of the Confederate monument.

Q. All right. Now, did you thereafter have an encounter with General Walker?

A. Yes, sir, I had gone back to the "Y" Building, standing at the top of the step, when my attention was directed to a crowd that was gathering at the Confederate monument, just to the east of the Confederate monument, and looking in that direction I saw a man who appeared to be General Walker standing at the base of the monument or on the base of the monument, at least at a point where he could be seen above the crowd and I went back—I went to the monument at that point and I think I got there just as he began his speech or address to the students.

Q. Do you recall anything that he might have said in that address, Reverend?

A. The first thing I heard him say was, "I want to congratulate you on what you are doing here this evening."

He went on to say, "You have every right to protest." He said, "Stand fast, firm. There are thousands behind you. You will win in the end."

He continued with criticism of the Federal Authorities. I remember particularly—

Mr. Address: We don't have any objection to repeating what was said but when he says, "criticism, of the Federal Authorities," I think that's a conclusion.

The Court: Do you remember what he said? If you do, state that as near as you can remember?

A. I beg your pardon. Yes, sir.

He said something about, "This is a long way around to Cuba;" that the Marshals and troops should be in Cuba and not where they were.

I was moving through the crowd at this point, toward the monument. But this was the substance or the essence of what he was saying at that point.

Now once I did get to the monument, the base of the monument, I was much closer to him. I remember very clearly another thing he said. He said, "I have just come

from a conference with the representative of your Governor and he said to tell you that you had been sold out, sold out by the man who led the Marshals onto the campus."

At this point there were cries from the crowd, "Who? [fol. 1549] Who?" And one or two voices said, "The Chancellor, the Chancellor."

General Walker paused at some length at this point and it was my impression that he bent over and spoke to somebody standing beside him but when he did raise up again, he said, "The man who sold you out was Col. Birdsong."

Q. All right.

A. By this time I was on the base of the monument, very close to General Walker, addressing him and asking him once again to try and quiet the students, to ask them to stop the rioting and what they were doing and to go back to their dormitories.

And he turned and looked at me and said to the crowd, "Here is an Episcopal minister that makes me ashamed to be an Episcopalian."

And I started to speak to the crowd at this point. I was at the base of the mon—at the base of the monument, started to speak to the crowd myself but was pulled down before I had spoken more than a very few words, pulled down by members of the crowd.

I hit the ground on one knee and was then picked up and pushed and shoved and moved through the crowd and out to the edge of it.

By the time I got to the edge of the crowd, I felt that those who were with me then who were pulling me along [fol. 1550] at that point were not hostile but friendly, were trying to protect me.

Q. Then where did you go?

A. Well, at this point, I became aware, first of all, of a man whom I had seen previously with General Walker on our first encounter. A man who appeared to be a law enforcement officer who was one of the ones pulling me away from the crowd at that point, and he spoke to me, identified

himself as a law enforcement officer, and he said, "I am a law enforcement officer and I can't do anything about this. You'd better get on home or you are going to get hurt."

It was, also, at this time that a man came up to me and shook my hand and said that he was a Methodist minister. He said, "I want to thank you for what you are trying to do here tonight."

After this, I moved back toward the "Y", back into the steps at the southern end of the "Y".

Just about the time I got there, two or—two other students, two students—two people who appeared to be students came up to me and asked me to go back to address the crowd again at the monument. They said that they thought the crowd would listen to me.

So I turned around to go back to the monument but by the time we got there, the crowd was breaking up and moving toward the Lyceum, moving around both sides of [fol. 1551] the monument and moving in a general movement of what you might call a charge toward the Lyceum.

Q. Were you able to discern whether or not, who was leading that charge?

A. No, sir, I was not able to tell.

Mr. Gooch: I believe that—

A. I moved into the circle itself, trying to talk to the students that I could reach. The crowd was much, much bigger at this point and I would stop as many as I could and try and ask them to stop and to go back but at this point I had very little success.

The few that would stop at all would stop to argue and curse and many of them with tears in their eyes, were comparing themselves to the Hungarian Freedom Fighters and, in general, though, there was—we had—I had very little luck at this point.

Q. That was now after you had left the monument?

A. Yes, sir, it was after the crowd had moved away from the monument and started toward the Lyceum, into the circle.

Q. I see.

A. And I had moved out into the circle and was giving ground with the crowd, going—trying to stop as many as I could and turn them back. I gave ground, I suppose, and ended up as close as a point about midway between the flag-[fol. 1552] pole and Lyceum, doing this same sort of thing, until the tear gas got so bad that I had to come back to the "Y".

Q. That was my next question. As that crowd moved toward the Lyceum Building, what, if anything, happened in the way of a tear gas burst?

A. Well, of course, once they got in the vicinity of the Lyceum, close enough to it, well, tear gas was fired in great quantities. That was the reason finally that I turned and came back myself: The tear gas got too heavy for any of us to take it.

[fol. 1553] Q. How long did you remain on the campus, Reverend?

A. The next time—in fact, the only time after the President's speech that I saw a clock and remember registering what time it was was when I had gone back in the Y-Building at about five minutes after 10:00. I made a telephone call to my home at that point. And I know I was standing in front of Dr. Willis' house at 11:15 p. m. I would imagine I left the Circle a little before 11:00 o'clock, perhaps a quarter of 11:00, and left the campus itself just after that.

Q. Did you see General Walker anywhere after you had had this meeting with him on the monument?

A. No, sir, I didn't see him again.

Mr. Gooch: Pass the witness.

• Cross examination.

By Mr. Watts:

Q. Rev. Gray, will you please pick up the pointer there and walk over to this chart. I am sure you probably will recognize that chart, but just to start you off, the top of

the chart is north, the right is to the east, and of course the left is the west. Here is the so-called Circle, the monument, the Lyceum, the YMCA Building and University Avenue (indicating).

A. Yes, sir.

Q. Now, as I remember your testimony, you testified that [fol. 1554] you arrived about 7:50?

A. I crossed the east bridge, which is right here (indicating) about 7:50, yes, sir.

Q. Since you are definite on the time, you must have checked?

A. Yes, I looked at my watch at that point, because I was afraid we would miss the President's speech.

Q. Were you walking?

A. No, sir, I was in an automobile.

Q. And would you trace your course, please, sir?

A. We turned right here by the Alumni House, we moved along Rose Loop, then moved by Faculty Row, then down Faculty Circle to this point right here (indicating).

Q. Now, what is that point?

A. This is the home of Dr.—Mr. and Mrs. James Silver.

Q. Dr. Silver?

A. Yes, sir.

Q. Now, to identify Dr. Silver, Dr. Silver, whether it be right or wrong, we are not involved in that, but he had taken a very active part in an effort to advance the cause of integration, hadn't he?

Mr. Gooch: If the Court please, I object to that.

The Court: Sustained.

[fol. 1555] Mr. Gooch: I ask the Court to instruct the Jury not to consider it. That is not part of the case.

The Court: Ladies and Gentlemen you are so instructed. We are not trying an integration case.

By Mr. Watts:

Q. That's right. Well, you then did go to Dr. Silver's house?

A. Yes, sir, I had gone to Dr. Willis' house, who was a member of my congregation. We were to watch the President's speech on TV there, but when we found their television set broken, then we went over to Dr. Silver's house. The Silvers were not there.

Q. And what time did you leave there, Reverend?

A. It was shortly after the President's speech was over. I would say fifteen or so. I imagine the speech didn't last more than seven or eight minutes.

Q. Then, were you afoot when you left, or did you go in a car?

A. I started out on foot, along with Rev. Wofford Smith, Dr. Willis, and one other faculty member, Dr. Fortenberry. We were picked up somewhere near around this intersection of Faculty Row and Faculty Circle, picked up in a car, and were driven to a point approximately along about the law school here, Lamar Hall.

Q. All right, sir. Trace your course from there on.

[fol. 1556] A. From there on we moved down Grove Loop, the Rev. Wofford Smith and I going together. The two faculty members dropped behind a bit. We came down Grove Loop to the edge of the Circle here, then, as I said a moment ago, we stepped into the Y.

Q. All right, sir. And how long were you in the Y?

A. Just a very few minutes at that point.

Q. Say five minutes?

A. I doubt if it was that long. Three, maybe.

Q. Where did you go from there?

A. I started out this door of the Y, and it was right about in here that the automobile with the Deputy Sheriff was passing, and we encountered him at this point (indicating).

Q. All right, sir. That is when you talked to him seeking his aid as an officer in quieting down what you were seeing?

A. Yes, sir.

Q. Incidentally, at that point and by that time, what were you seeing? What was going on out in front of you?

A. Well, of course, by then around this part of the Circle—

[fol. 1557] Q. By "this part of the Circle" you are pointing to the northeast quadrant?

A. Yes, sir.

Q. Now, that Circle, by sidewalks, is divided roughly into four quadrants?

A. Yes, sir.

Q. Northeast, southeast, northwest and southwest?

A. Yes, sir.

Q. And the two on the west are somewhat larger than the two on the east—

A. No.

Q. As you were, the two on the east are somewhat larger than the two on the west?

A. Yes, sir.

Q. I was looking at it backwards?

A. Yes, sir.

Q. Then when you are saying, "This area," you mean the northeast quadrant?

A. Of course, this was the point that was most visible to us at this point and I remember that many students were running up, or many members of the crowd—

Q. Yes.

A. I don't want to use that term too loosely.

Q. All right.

A. But people, anyway, were moving back and forth [fol. 1558] most of them carrying weapons of some sort, I mean bricks or bottles, coke bottles, pieces of pipe, concrete and things such as that. A number of them were moving toward the Lyceum. They were moving in all directions at this particular point when we first moved out there.

We concentrated on those that ran in this area, right at that time, those who had weapons, and were running in a

general northwest direction, trying to stop them and take their weapons away from them and ask them to go back to their dormitories.

Q. And I believe you said that the lads would frequently look somewhat dazed?

A. Yes, sir, as we would stop them the ones who seemed to be students did—they more or less were cooperative and they would give their weapons, drop them where they were, and, as I say, I don't know how many went home.

Q. At least they would drop their weapons and took off?

A. Yes, sir.

Q. And at that point you seemed to be having some effect on some of them?

A. With some. Of course, we were catching a very small portion of the crowd.

Q. These lads had obviously been through a lot of tear [fol. 1559] gas, hadn't they? Weren't their eyes inflamed?

A. I couldn't notice their eyes at that point. I imagine they were, like I was.

Q. Well, your eyes were a little smarty, too, weren't they?

A. Yes, sir, they were smarting.

Q. Now, about what period of time would you say you remained there in the northeast quadrant?

A. Right in the northeast quadrant?

Q. Yes, sir.

A. I don't know the exact length of time. We were moving during this period, after we moved into the circle, we moved out into here, generally. At the beginning we were in here.

Q. By "here" you mean closer to the flagpole?

A. Still in this northeast part.

Q. Now, this right here (indicating) is the flagpole?

A. Yes, sir.

Q. If I get your picture right, you started out in the northeast part, the northeast quadrant?

A. Yes, sir.

Q. You remonstrated there a while with the students?

A. Right.

Q. And gradually worked your way down southwest-
[fol. 1560] ward, somewhat closer to the flagpole?

A. No, sir, I didn't go—at this point I was close to the flagpole. I worked my way more in this direction.

Q. Right.

A. In the southeast part of the Circle. I remember, for example, sometime I was right about here (indicating) and watching the Highway Patrol pull out. At least the Highway Patrol cars; seemed to be about fifteen cars at that point pulling out here.

Q. Now, let's get the time of the action absolutely straight because we are getting down to the critical part of the operation.

A. I understand.

Q. As I understand, about 8:20 or 8:30 when you appeared at the YMCA Building you moved down into the northeast quadrant of the Circle and spent some little time there remonstrating with students, gradually worked your way down so that you worked on across this sidewalk, and as of about this time the Highway Patrol pulled out and you were down in the southeast quadrant?

A. Yes, sir. Well, I had been in the southeast quadrant once earlier too, because I believe a light standard was there, when I had tried to get some students to quit breaking out the lights there.

[fol. 1561] Q. All right, sir.

A. Now, I was down in the east end most of this time, not close to the flagpole at this point. And at one point I was back in the Y during this period of time.

Q. For what period of time?

A. Again it is hard for me to say exactly, sir. But several minutes.

Q. All right.

A. And in one instance I remember specifically in connection with that visit, was stopping some students inside the Y Building who—well, one student particularly, who had

bricks in his hand, and speaking to him and taking the bricks from him and dropping them in the wastebasket in the Y. I was in the Y that time several minutes. How long, I wouldn't be able to say.

Q. Would you say more or less five, or approximately five?

A. I would say probably five, somewhere around in there.

Q. Now, then, Rev. Gray, you had met General Walker in the Circle?

A. Yes, sir.

Q. Would you put your pointer as nearly as you can to where you met General Walker?

A. Well, as best—as best I can remember, it was between [fol. 1562] the flagpole and the monument.

Q. All right.

A. I think it was perhaps closer to midway between, right about in here (indicating). The Grove—the Circle was fairly clear at this point. The tear gas was heavy up towards the Lyceum. Most of the crowd had backed away. There was considerable concentration back down in here; and General Walker and his group of perhaps ten or twelve or fifteen men stood out rather clearly at that point.

Q. Now, then, let's endeavor as the very best your recollection will permit to fix the time when you saw General Walker there in the southeast quadrant, with the time you saw the Highway Patrol leave?

A. You mean which came first?

Q. If you can, yes.

A. Well, my recollection is, sir, that the Highway Patrol—watching the Highway Patrol leave came before I saw General Walker.

Q. Would you say shortly before or could you fix any kind of a time bracket at all?

A. Certainly it was not too long before, but I couldn't give an exact time.

Q. Now, at the time the Highway Patrol left, did you hear any outcries by the students, "Governor Barnett sold us out, what are they leaving us for," or anything to that effect?

[fol. 1563] A. No, sir, the crowd that was gathered along each side of this University Circle, this part over in here, were cheering when the Highway Patrol pulled out.

Q. They were cheering the Highway Patrol?

A. Cheering the Highway Patrol for leaving.

Q. For leaving?

A. This was my impression, anyhow.

Q. Anyhow, they were cheering?

A. And they were pulling out.

Q. But you didn't hear anyone say they were cheering them for leaving?

A. Well, no, sir.

Q. Well, now, isn't it a fact that shortly after they left, or about the time they were leaving, many of the students were talking and spontaneously sounding off, "Well, Ross let us down, we have been betrayed," or something to that effect?

A. No, sir.

Q. You didn't hear that?

A. No, sir.

Q. All right. If you didn't hear it, you didn't hear it.

Now, then, from the time you encountered General Walker right here at this point. Let's work backward and you tell [fol. 1564] us, starting from meeting General Walker and talking to him, and work your course backward to the YMCA, and tell us in as much detail, because this is critical, if you can possibly remember just what you saw and what occurred?

A. To get these things in exact chronological order is a little difficult,—

Q. I understand.

A. Mr. Watts, but I can tell you a number of things that happened in the period of time before I saw him.

Q. Well, let's—excuse me. Let's try to do it this way, if you can.

A. Yes, sir.

Q. You have a very distinct recollection of meeting General Walker?

A. Yes, sir.

Q. In other words, you can mentally close your eyes and go back and relive that experience. Could you?

A. Yes, sir.

Q. As nearly as you can from the time of that experience, I wish you would follow the same process of recollection and try to project to the Jury, and extend back just what occurred from the time you and General Walker were talking in this vicinity (indicating) until you worked your way [fol. 1565] back to the YMCA.

A. This is moving backward?

Q. Yes, sir, moving backward.

A. This happened prior to that time?

Q. Yes, sir.

A. I remember, of course, that I was standing approximately here when I saw General Walker.

Q. Yes, sir.

A. My recollection is that I had come from this section of the Grove, I mean the Circle, to that point. Because it had been over here that I had watched the Highway Patrol leave. I remember that very distinctly. I had been over talking to some of the students here, and my recollection places this as being before seeing General Walker. I know I had been back—I also remember that when I heard the students saying, "Now, we have a leader, now we have a leader . . ."

Q. That's right.

A. That this was down again in this general area closer to the monument. It was at a point where I would say perhaps—along the walk here, or in this general area to the south (indicating), but I was moving in this direction (indicating).

Q. Uh-huh.

A. And so that I would say that I remember hearing the [fol. 1566] students say this here (indicating), my recollection being this was just very shortly before I saw the General himself.

Q. Uh-huh.

A. So, that, reconstructing it again, I imagine it was moving back in this direction when I turned back in the direction of the Grove—of the flagpole and the Circle and saw him.

Now, I had also been in the Y, as I say, earlier. This second visit to the Y is hard for me to relate to this whole sequence we are now talking about, but apparently it must have been prior to my going over here to talk to the—I mean, where I was talking to the students in this street.

I know I was in the Y several minutes there, as I said.

Q. And then, meanwhile, working your way backward from the encounter with Walker timewise to your first appearance in the YMCA, you have pretty well summarized it, now. Did anything else happen prior to that, and working your way on back to the YMCA?

A. To get the time sequence here—

Q. That's right.

A. Prior to what?

Q. You are working your way back.

[fol. 1567] A. Yes, sir.

Q. You saw Walker here?

A. Yes, sir.

Q. Just before you saw him you said you had been strolling along in here (indicating).

A. I had seen him from approximately here (indicating).

Q. You think you had walked down here near the monument and walked back up, occupied this position here, and had seen him.

Now, prior to that, as I understand, you had been working around in this northeast—northeast quadrant, along in here, remonstrating with the students, taking bricks and rocks and bottles from them, and endeavoring to quieten them down?

A. This is when I first came out of the Y?

Q. Right.

A. Yes, sir, right after we stopped the Deputy Sheriff.

Q. All right. Now, working it again the other way, we have you coming out of the Y, spending about less than five

minutes, coming on out, seeing the officer, or watching him leave. You drove—walked on down with Rev. Wofford Smith, down to the northeast quadrant, you spent some time down there, then you walked back here, walked back to this [fol. 1568] point, saw General Walker at this point, and talked to General Walker?

A. The only thing we left out there was the second visit to the Y.

Q. That's right, and in here sometime you said approximately five minutes that you were in the Y?

A. Yes, sir.

Q. All right, sir. Now, then, had General Walker come striding up University Avenue, met the leaders of the mob in a position near the Confederate monument, conferred with them a few minutes, held up by the portly dressed—portly well-dressed man that approached the group, two leaders of the mob, one waving a big Confederate flag, and each taking him by the arm, and they positioned themselves in front of 1,000 people in the vicinity of the Confederate monument, walked in a charge across the northeast quadrant of the Circle, arrived at a point just northwest of the Lyceum—flagpole, veered off to the left and rushed forward, through the missiles, the tear gas was fired, and they all raced back—had that occurred from the time you arrived at the YMCA and from the time you met General Walker here you undoubtedly must have seen it, wouldn't you?

A. Unless I was in the Y at the time, or perhaps down in this part of the Circle (indicating).

[fol. 1569] Q. Yes.

A. Now, there was some time in the Y, and there was the time here (indicating). I know that there had been a very heavy volley of tear gas fired just before I saw General Walker here, because this Circle had cleared out pretty well then, when he was out there with the group, when I first saw him.

Q. From the time you were walking down in here, went back over here, and saw General Walker, you didn't hear

any comment among the crowd that Walker had led a charge, did you?

A. No, sir, I didn't hear that he had led a charge, no, sir. I heard the comment, "Now, we have a leader."

Q. "Now we have a leader," and that was when you were in the vicinity of the flagpole?

A. No, not the flagpole.

Q. Strike that, I mean in this vicinity (indicating).

A. Yes, sir.

Q. Now, then, in terms, you were there and you are endeavoring to relive that dramatic incident that I have outlined, 1,000 people following General Walker and two men in a charge against the Marshals across the northeast part of the Circle, they would have had to run over you to make that kind of a charge, unless it would have been in the five [fol. 1570] minutes you were in the YMCA?

A. The 1,000 people is the only thing, I believe, I would have seen 1,000. Now, there were lots of things going on that I couldn't see. I didn't know about during that period. But a crowd that included a thousand people—if they had all moved at once across the Circle.

Q. You must have seen them, if that had occurred?

A. Again, it depends on the size of the crowd, and it depends on whether I was in the YMCA, or perhaps down in this area (indicating).

Q. And from your knowledge of the students and from your observation of what was going on out there, if General Walker had led that charge during the five minutes you were in the YMCA you know that there would have been complete bedlam when you got back out there, wouldn't there?

A. Of course there was bedlam pretty well all the time.

Q. I know, but in other words, there was a lot of sporadic activity, wasn't there?

A. Yes, sir, quite a bit of activity along before then.

Q. Now, in your deposition previously taken in this case, I asked you questions and—I asked you questions at that time?

[fol. 1571] A. Yes, sir.

Q. Wasn't it your testimony then that prior to the speech on the monument, there was no concerted activity that you saw, it was all sporadic, by groups of five or ten and so forth?

A. What I was trying to do was compare that with what took place after the speech on the monument and I said this, and I will say it now, that I saw nothing that involved the numbers before the speech at the monument—

Q. That's right.

A. That I saw after the speech at the monument.

Q. That's right.

A. After the speech at the monument, there seemed to be more coordination, or let's put it this way, they were moving more as a unit. There were more people involved. Now, there were a number of charges and advances on the Lyceum prior to the speech on the monument, but they were not of the magnitude that came after the speech.

[fol. 1572] Q. And didn't you previously testify that they were of a sporadic nature?

A. You asked me about if that word would be adequate and I said, "In a sense," as I recall.

Q. Yes, sir.

A. My testimony there. That certainly, by "sporadic," if we mean that it was not of the same magnitude as what happened after the speech, yes, sir.

But this did not mean that there were not groups that moved in the direction of the Lyceum.

Q. All right.

A. And did attack the Marshals.

Q. I didn't say that.

A. —before that, yes, sir.

Q. The previous testimony as I understood it, was—

A. Yes, sir.

Q. —that you said before the speech on the monument, there were small, disorganized groups with apparently no unified leader, or words to that effect, wasn't that your concept of it?

A. Again, in terms relative to the size—

Q. Right.

A. —of after the monument, the charge after the monument.

Q. Now will you take your seat, please, sir.

[fol. 1573] A. Yes, sir.

Q. Now Reverend Gray, was there not a lull in the rioting shortly before General Walker mounted the monument and shortly before the Highway Patrol left?

A. Well, as I said, when I saw General Walker the first time out in the circle, there was a lull at that point in the sense that the tear gas was pretty heavy up around the Lyceum. The crowd had moved back and was—a number of them were concentrated around the monument and even to the east of the monument so that at that point, there was—we could call that a lull, a lull presumably brought about by the tear gas.

Q. Well, and when the Highway Patrol left, too, that caused somewhat of a lull in the activity next to the Marshals, didn't it?

A. I was not aware of it, sir. I saw the Highway Patrol pulling out University Circle in front of the Engineering Building. They were at that point a long way from the Marshals.

Q. Did you see in your press or learn of the United Press report that during a lull in the rioting, General Walker mounted the Confederate statue and begged the troops (sic) to avoid their violence and was met by one massive jeer; did you see that United Press report?

A. I don't recall having done so, sir.

[fol. 1574] Q. You have heard about it many times, haven't you?

A. About being greeted with a massive jeer?

Q. About Mr. Al Kuettner's report that during a lull in the rioting, General Walker mounted the Confederate statue and begged the students to avoid their violence and he was met by one massive jeer; haven't you heard of that news report?

A. No, sir, I really haven't.

Q. Well—

A. Haven't saw that.

Q. Wasn't there actually a lull in the rioting just about the time the Highway Patrol left?

A. I don't tie this to the departure of the Highway Patrol. Certainly when General Walker was making his speech at the monument, the crowd, most of the crowd was gathered back at the monument.

Q. Uh-huh.

A. Listening to him. But—and if that had been a lull, yes, they had withdrawn from the circle—not all of them necessarily but a large number had moved back to the monument at the time General Walker spoke to them.

Q. In other words, at all times during that evening, there were groups of students in contact with the Marshals; that is, they would gather together, get their rocks and their bottles and things and run up and throw them.

[fol. 1575] Now that went on continuously, even during the speech, didn't it?

A. That I don't know, sir, because I was down at the monument with the crowd and looking at General Walker and standing there. I wasn't watching the Lyceum. This is a long ways from the Lyceum. I didn't—couldn't tell what was going on at the Lyceum right at that point.

Q. You didn't see the Lyceum then from where you were near the monument?

A. Well, certainly, you could see the lights of the Lyceum from the monument because it was lighted very well.

But the point I was making is, I was not looking at the lights—at the Lyceum. The Lyceum stood east; I was coming from the "Y", which is north of the monument. I was looking at General Walker and the crowd that was gathered at the monument and then moving through the crowd.

I could not describe to you what was going on at the Lyceum while the speech was going on because I was—I was watching—I was looking in another direction. I was looking at General Walker.

Q. Could you hear tear gas still being fired up near the Lyceum before, during and after the speech?

A. I don't recall tear gas being fired during the speech but I couldn't be absolutely certain of that.

Again, I was pre-occupied with what was going on right [fol. 1576] in front of me. I certainly remember tear gas being fired in great quantities after we, after the—after the speech, when the crowd moved toward the Lyceum, certainly the tear gas had been fired in quantity just prior to the time that I saw General Walker, because this is what had seemingly cleared out the circle, that so many had moved back.

Q. Did you hear General Walker state this or this in substance: "No one came here for violence. Violence is not the answer. Your real enemy is in Cuba, that way," and he pointed toward Cuba?

A. No, sir, I didn't hear that. I testified to what I did hear. I remember a reference to Cuba but it was more in the nature of, "This is the long way around to Cuba. The Marshals ought to be in Cuba, not here."

Q. Did he say, "the Marshals", or "the troops"?

A. Marshals and troops.

Q. Or do you remember?

A. Of course, the troops were not on the campus at that point. They were—

Q. They were where?

A. Presumably still in Memphis and around about but, I mean they had not come onto the campus at that point.

Q. But actually you knew, didn't you, by that time they were in a staging area about 15 miles north of town?

A. I knew there—I knew they were—I didn't know they [fol. 1577] were that close, no—except, of course, I knew the local National Guard Unit, they were down—

Q. Of course, when you saw General Walker over there between the monument and flagpole, you went over, had this talk with General Walker.

Now at that time you had been in there remonstrating with students and walking back and forth through that tear

ga for a considerable period of time, hadn't you—at least 20 or 30 minutes, maybe 40?

A. Yes, off and on.

Q. And weren't you somewhat excited at that time yourself by all of these events and violence that was going on?

A. I was certainly worried, yes, sir.

Q. And didn't you come up and catch General Walker by the arm, or do you remember, or take his arm?

A. Not that I recall, no, sir. Not that I recall. I walked up to him and addressed him as General Walker.

Q. Did you stick out your hand and shake hands with him?

A. Not that I recall.

Q. You didn't like him very well, did you, Doctor, or Reverend?

A. That had nothing to do with it at this point. I just went up and asked him to help us because I knew that he could be of help. I knew the students would listen to him.

[fol. 1578] Q. Well, you had read quite a bit about him?

A. Yes, sir.

Q. Had he represented a concept that you bitterly disapproved of, didn't he?

Mr. Gooch: If the Court please, I object to the form of that question. We are not talking about integration in this case.

The Court: Sustained.

Mr. Watts: I wasn't talking about integration at all.

Mr. Gooch: All right, it has that implication and I move the jury be instructed not to consider that question for any purpose.

The Court: The jury is—

Mr. Address: I would like to say something on it. We can ask things of this sort to show bias and prejudice. It certainly would go to bias and prejudice of the witness.

The Court: Overruled. Ladies and Gentlemen, you are instructed not to consider the last question and answer of the witness.

Mr. Watts: Anyhow, Reverend Gray, you didn't go up and stick out your hand and shake hands with him?

A. Not that I recall.

By Mr. Watts:

Q. Well, if you had, you probably would recall it, don't [fol. 1579] you think?

A. I should think so.

Q. And did I understand you to say that General Walker said at that time, "You are the kind of an Episcopal minister that makes me ashamed of being an Episcopalian"?

A. Yes, sir, that was toward the end of our conversation.

Q. That's right. That's right.

A. Yes, sir.

Q. In other words, you went up to him at that point between the flagpole and the monument, and you asked him to stop, and he said, "I can't. I'm just an observer," or something to that effect.

Q. And then you talked with him a little more and he said, "You are the kind of Episcopal minister that makes me ashamed of being an Episcopalian"?

A. Yes, sir.

Q. All right. Now, at that time, as a matter of fact, there is—there are two very definite schools of thought in the Episcopal Church—let me finish the question—the so-called liberal and the so-called conservative groups and there is considerable conflict between them, isn't there?

Mr. Gooch: If the Court please—

The Court: We are not going to get into that. I'm not going to permit anything like that at all.

[fol. 1580] Mr. Andress: May we have our Bill on that?

The Court: Yes.

By Mr. Watts:

Q. Now then Reverend Gray, what was the meaning to you when he said, "The kind of Episcopal minister," what did that mean to you?

A. Well, since I had just been telling him why I was out there, I said I was there to do whatever I could to stop the violence, to get the students to go home and quit what they were doing, and when I—I had just finished describing what my purpose of being there was, which was to do everything I could to calm the students and to curtail the violence, and it was in that context immediately after my having said that that he said, "You are the kind of minister that makes me ashamed of being an Episcopalian."

My interpretation was that, as he had said, the students had a right to protest and that we ought to let them protest and keep going and that I shouldn't be out there trying to stop them.

Q. That was your impression. In other words, that was the impact it had on you, what he said?

A. Yes, sir.

Q. Now what was your impression of the fact that he said he was there only as an observer and couldn't stop it if he wanted to?

A. Well, my impression, I, of course, continued to urge [fol. 1581] him to speak to them because I thought he could be very helpful in this respect.

Q. You saw him doing nothing at any time other than observing, did you?

A. He made a speech, of course, to the students. I saw him make that.

Q. How did that speech affect you? Did that speech indicate to you that he was trying to lead the crowd in adverse action toward the Marshals?

A. Well, it certainly impressed me that it was further inflaming or inciting the students, telling them, congratulating them on what they were doing. He was encouraging them, telling them to stand fast, be firm, that there were thousands behind them.

This certainly had the effect of encouraging what already amounted to rioting. It was a riot.

Certainly, to tell them that they had been sold out by the man who led the Marshals onto the campus. This was,

also,—this would serve also to further inflame or incite them.

Q. But the point is, you got no impression and have so testified, have you not, that Walker was going to lead the students in any kind of activities against the Marshals?

A. I did not hear that, sir. Remember, I was pulled down from the monument some time before the incident at the [fol. 1582] monument was completed so that I was—there may have been many things said after I was pulled down from the monument, I don't know about that, and taken away.

Q. Now refreshing your recollection a little from your deposition which was taken on May 11, 1964—

A. I beg your pardon, sir. It was taken in February, I believe.

Q. That's what I thought. Oh, this is the wrong one. No wonder I couldn't find it. I couldn't find where Mr. Kuettner said what I thought you said. Thank you, sir, for helping me out there.

Your deposition was taken on February the 4th, 1964?

A. Yes, sir.

Mr. Watts: Do you have a copy of that, Mr. Gooch?

Mr. Gooch: Yes.

Mr. Watts: Might he have it, please, to save me running back and forth?

Mr. Gooch: What page?

Mr. Watts: Page 59.

By Mr. Watts:

Q. Now, Reverend Gray, refreshing your recollection from your deposition, I'll ask you if this wasn't your recollection on February the 4th:

"Question: After the speech was finished, did you hear General Walker say or did you get the impression that he [fol. 1583] had advised the students that he did not intend to lead them in any actual violence?

"Answer: No, sir, I didn't.

"Well, you certainly did not have the impression that he was going to lead them in acts of violence such as a charge on the Marshals, did you?"

"No, sir, I didn't have the idea that he was going to lead them."

Now, that was your impression at that time, was it not? Yes or no.

A. Yes, sir.

Q. All right, sir. Now would you turn, please, to Page 41. "Did you see a rather heavy-set man around him at that time?"

"Yes, sir.

"How far was he from General Walker?"

"I don't know, he was right with him, standing right beside him. I recall seeing him right in the group.

"Now then Reverend Gray, was there any change in the character of these charges by the students from before General Walker's speech and after?"

"Yes, sir.

"What was that change?"

"Well, after the speech, why, the charges involved far more people, and before the speech, it was just an action by [fol 1584] groups of people, they were not all working together.

"Question: You mean there was no concerted action at all before General Walker's speech, in other words, it was just a group of people that would move forward at one time, is that right?"

"Yes, sir."

Would you prefer to read that? Go ahead and read that.

A. (Reading) I am not sure about the last, though, that there was no concerted action at any one time, I'll say this, if you would compare what happened before—" Before that. I think that means before the speech.

Q. Yeah.

A. "With what happened after the speech there at the monument and what happened before, certainly what hap-

pened after the speech at the monument involved more people moving in the charge toward the Lyceum than had been before the speech." Is that—

Q. No, go ahead and finish it.

A. "But before the speech, there was those groups moving as a group, not as the entire crowd, they would, some of them would move there and some here and advance to where they could throw their weapons and then run back to form again, but I did not have the feeling, as many people [fol. 1585] moved all at once together before the speech as they did after the speech. There is no question about that." [fol. 1586] Q. "You mean after the speech?"

Answer: "After the speech."

A. Yes, sir, after the speech.

Q. I will just read it for a while.

Question: "Would the term 'sporadic' be accurate as to the activity before the speech?"

Answer: "Perhaps, though I would say this was not as if it might have been a charge, it was just a few people then because there was quite a number of charges. It was just a continuing thing, but by small groups and individual people and their action depended on the intensity of the tear gas as to whether they moved right straight close to the Lyceum or whether they would fall back. But I think after the General's speech, we had a continuing thing but it was all of the crowd moving forward together. It might have been just the same number of people moving altogether, but it was quite different from the various groups moving separately. Now, that happened after the speech at the monument."

Now, that was your testimony at that time?

A. Yes, sir. The inflection there—it might have been just the same number of people, but moving altogether. After the speech is what I mean.

Q. Well, you read that and we will get to the inflection. [fol. 1587] A. I say it might have been just the same number of people in the whole crowd, but after the speech

they were moving—after the speech they were moving altogether.

Q. Well, let's see now, let's start reading.

A. All right.

Q. I'll tell you what, let's go back so we will get your inflection, and I will read my question.

"Would the term sporadic be accurate as to the activity before the speech?"

Now, read your answer.

A. "Perhaps, though I would say this was not as if it might have been a charge, it was just a few people then because there was quite a number of charges. It was just a continuing thing but by small groups and individual people, and their action depended on the intensity of the tear gas as to whether they moved right straight close to the Lyceum or whether they would fall back. But I think after the General's speech we had a continuing thing but it was all of the crowd moving forward together. It might have been just the same number of people moving altogether, but it was quite different from the various groups moving separately. Now, that happened after the speech at the monument.

Q. "Did you at any time prior to the speech see a movement of substantially the entire group with only one or [fol. 1588] two in line, one or two groups, I mean?"

A. "No, sir, I didn't notice it. Not the whole group, I mean. Not the whole crowd. It was after. The crowd was circling the Circle pretty well. I mean the east end of the Circle. They were all—I mean, from the Fine Arts Building, around the Engineering Building, with concentration, so much of the time, being down in the east end around the monument and in that general area."

Q. By circling, you don't mean they were moving around?

A. No, sir.

Q. They were just standing in a position—

A. That's right.

Q. That would encircle it?

A. Well, of course, up to a point. I would say about halfway, but not close to the Lyceum.

Q. What I am getting straight—what I am trying to get straight, you don't mean that they were circling like a demonstration?

A. No, sir, I don't mean that.

Q. Now, Rev. Gray, turn over to page 45, please, sir. The question about the middle of the page.

"Then during this period before the speech, did you at that time ever see a charge that could be compared to the participation of the entire crowd on both sides of this east-[fol. 1589] west sidewalk?"

A. Wait just a minute. I believe I have lost you. What page?

Q. Page 45.

A. Page 45. Which question?

Q. I will read it again: "Then during this period before the speech, did you at that time ever see a charge that could be compared to the participation of the entire crowd on both sides of this east-west sidewalk?"

A. "No, I never saw one that did involve everybody that night. People came from all around. A group would come up from one direction and some from another, but I never saw a charge such as you have described."

Q. "Did you ever see that night a charge of all the people in fairly close proximity to the Lyceum?"

A. "If you are asking if the whole crowd moved at one time, no, sir."

That needs to be clarified. I mean, there were plenty of people standing out there, that I would say were observers. I wouldn't say everybody who was standing on the edges was actually participating in the riot itself. In fact, I know of several who were simply there standing and not participating at all. That is the point of the question, that it didn't involve everybody out there that night.

[fol. 1590] Q. In fact, General Walker told you he was an observer, didn't he?

A. Yes, sir, he did. Most of the observers were on the edge of the crowd. I mean, sitting or standing around the Y Building, or in that area.

Q. You never did see General Walker with anything in his hand, did you?

A. No, sir.

Q. And you were an observer also, were you not? Well, you were a little more than an observer?

A. I was trying—

Q. You were actually a counter rioter, weren't you?

A. I was trying to do what I could to stop it, yes, sir.

Q. Bottom of page 45, the last question:

"Now, Rev. Gray, with reference to these so-called charges that you saw and described them as to the area and the size of the crowd and the activities anytime before the Walker speech on the monument, I will ask you to now please just draw us a word picture of it."

A. "I don't recall these charges to where I could describe one of them at a particular given time. It is a dynamic thing, it wasn't something that just happened and it would be hard to draw a word picture of it."

[fol. 1591] Are you asking me about—

Q. Now, just wait. Let's just read it.

A. All right, excuse me.

Q. Then we will get to the conversation after a while.

A. All right.

Q. The inflection is what I am trying to get at, the word picture, just what you saw.

A. I'll say this, there was a movement at all times in the area. There were people on the ground, you see, just moving aimlessly about, it seemed. Some were going some way and some the other. They would go up toward the Marshals, a big crowd of them, and then they would fall back and that went on all during this period of time, advance and fall back.

Q. "And there would be a large crowd doing that?"

A. "Yes, sir, there would be, but the whole crowd didn't do the same thing at the same time. There was a whole crowd but there was a number of groups."

Q. Now, Rev. Gray, what was your official position as far as your relationship with the students were concerned? Weren't you an assistant Chaplain, or had some kind of relationship with the University?

A. When I first moved to Oxford in September, 1957, I was Rector of St. Peters Episcopal Church and also Chap-[fol. 1592] lain for the Episcopal students at the University.

In January, 1961, the Reverend Mr. Smith came there as Chaplain and I was Rector, so actually he was Chaplain of the students at that time.

Of course, many members of the University faculty are—and some students as well, are actually parishioners of St. Peters Church in Oxford, so that I had no official connection with the University, no, sir, but many of my members were on the faculty staff.

Q. You were very familiar with the students, of course, and their reaction and how to handle students, weren't you?

A. Hopefully. I wouldn't begin to judge my competence in that respect, but I had worked with students, yes, sir.

Q. Rev. Gray, in fairness, don't you think if Mr. Meredith had been brought on the campus area Monday morning when most of the students had come back from the football game—

The Court: Mr. Watts, I am not going to even permit you to go any further with that question. That is highly speculative.

Mr. Watts: I was trying to qualify him as an expert, but I guess nobody is quite that expert. I will withdraw it. [fol. 1593] The Court: All right.

Q. Finally, Rev. Gray, after the speech at the monument you had no impression at all that Walker had either

told the students he would or that he intended to lead them in any violent activity against the Marshals, did you?

A. I had no impression he was going to lead them in a charge, that he personally would do it. I did not hear anything to this effect.

Q. And how far away from the monument, going to the westward, was he when you lost sight of him?

A. Now, I beg your pardon, here, this is after the speech?

Q. After the speech, yes.

A. He—the last time I remember seeing him was as he stepped down, or out of sight, when I was still fairly close to the Y, and as best I could tell he moved around on the south side of the monument, but I can't be certain of that. I didn't see him again.

Q. But it was your impression, was it not, from where you were standing over toward the YMCA, that General Walker, having faced the east making his speech, turned to his right and went around the south side of the monument, and then proceeded toward the flagpole?

A. That was my assumption, sir, since I didn't see him.

[fol. 1594] Q. At that time you didn't see any people run over to where he was from the area of the YMCA, did you?

A. From the area of the YMCA?

Q. Yes, where you were.

A. Well, I, myself, was moving in that direction. I think there were one or two with me. The students had come and asked me to go back and try to talk to the crowd again.

But as—when we got there, as I say, after the crowd had moved around, the monument, I moved out into the Circle.

Q. But the point is, after you saw General Walker step down from the monument, turn to his right, and then move toward the flagpole, along in this direction, there was no large movement from this area (indicating) where you were, down toward the flagpole, was there?

A. There was a movement, but I think most of these people were coming from around here. Now, this is where

I had actually encountered the crowd. This was where I was spending my time, in this northeast quadrant, after the speech. On my way from the Y. The crowd moved in and came more or less engulfed me, and I was giving ground in this general area over here, so that the crowd was coming this way, and coming on this side of the monument too.

[fol. 1595] Q. Did you then, after you had moved away from the YMCA and gotten down here, did you see General Walker any more?

A. No, sir, I didn't see General Walker. I was in this area pretty much with my back to the Lyceum, giving ground, trying to stop whoever would stop, and get some of them to go back, and the crowd more or less passed me by, but there were still others coming on up, and I would stop them as best I could, and give ground with them.

Q. Now, let's draw this Jury, please, sir, a word picture. First, where you were, where you were when you last saw General Walker?

A. Somewhere between the Y Building and the monument.

Q. That is from here to here (indicating)?

A. Yes, sir.

Q. That is flat terrain there?

A. Yes, sir.

Q. There is a street light off over here somewhere on the south?

A. I am not sure of that. There was some light.

Q. So, from where you were you couldn't see General Walker step down and start off?

A. I saw him disappear. And I am assuming he stepped down from the elevated spot he was on.

Q. Now, could you take this pen and put a little X with [fol. 1596] a circle around it where you saw him disappear.

A. Well, at the monument. I mean, at the base of the monument. I mean, he presumably stepped down and he disappeared to my sight in the crowd. My assumption—

Q. Don't give your assumption.

A. All right.

Q. Then you did not see him after the speech, move one yard to the west of the monument?

A. No, sir, I didn't see General Walker again.

Q. And all you saw after the speech a crowd moving toward the monument, toward the flagpole?

A. Toward the Lyceum, yes, sir, and I was in the crowd. I mean, out in it with my back pretty much to the Lyceum most of the time, trying to talk to those headed toward the Lyceum.

Q. Prior to that time as you were standing at the YMCA, wasn't there still tear gas being fired up here, and activity up in this area (indicating)?

A. I don't recall being aware of any heavy—any tear gas barrage, actually. Now, whether there was sporadic firing, I couldn't say, but no, sir, certainly there was not a heavy firing of tear gas at that point, because again my attention and my interest was concentrated down here.

Q. Sure. Where Walker's speech was.

[fol. 1597] A. I couldn't say exactly what was going on up there, but I think if a lot of tear gas was being fired, I would have known it.

Q. Can you fairly or accurately say to this Jury that you did or did not ever see General Walker lead a charge?

A. I did not see him lead a charge.

Mr. Watts: That is all.

Mr. Gooch: Nothing further.

The Court: I am going to excuse the witness.

Mr. Andress: May we make our Bill during the recess?

The Court: Yes, wait out in the hall.

Mr. Gooch: It is nearly recess time now, I don't want to break into another witness.

The Court: Ladies and Gentlemen, let's recess until twenty-five minutes until 11:00.

[fol. 1604]

JOHN CHARLES HILL, called as a witness by the Defendant, having been first duly sworn, testified as follows, to-wit:

Direct examination.

By Mr. Gooch:

Q. Please state your name.

A. John Charles Hill.

Q. And where do you live, Mr. Hill?

A. When I am not attending the University of Mississippi, I live with my parents in Dover, Delaware.

Q. How long have you lived in Dover, Delaware?

A. My family just moved to Dover this March, this past March, from Chicago.

Q. And prior to living in Chicago, where did your parents live?

A. In Jackson, Mississippi.

Q. How long did you reside in Jackson, Mississippi?

A. For two years.

Q. Where were you born?

A. Fort Worth, Texas.

Q. What's your father's name?

A. John Lee Hill.

Q. Was he formerly the manager of Swift & Company here in Fort Worth?

A. I believe he worked as—on the sales force with the cheese end of it.

Q. All right. Now on September, 1962, September the 30th, 1962, were you a student at Ole Miss at Oxford?

A. Yes, sir, I was.

Q. And in what year were you there?

A. As far as—

Q. Scholastic.

A. Sophomore.

Q. Yes, sir. And how old are you now?

A. Twenty-two.

Q. You would have been roughly 21 at that time—20 or 21?

A. Yes, sir.

Q. Directing your attention to September 30, 1962, can [fol. 1606] you give us your whereabouts on that day?

A. Yes, sir, I was in Jackson Sunday morning. Of course, we had had a football game and played Kentucky, the previous night and I went to church with mom and dad and then spent the early afternoon with my parents and then continued to Oxford that afternoon, a little later in the afternoon.

Q. Do you know about what time you arrived in Oxford?

A. I would say approximately around 4:30, 5:00, in there, in that area in the afternoon.

Q. All right. Where did you go when you got to Oxford that afternoon?

A. Well, I went to my dormitory room, which was Baxter No. 4, and I unloaded my suitcase and whatnot.

Q. And then what did you do?

A. And then I proceeded back to the Ole Miss Motel to see Dan Rather, who was a CBS correspondent out of Dallas, covering the problem we had.

Q. Did you have any connection at that time with CBS news?

A. Yes, sir.

Q. What were you?

A. Well, I was a stringer. This is a type of individual who carries film, sets up interviews, just helps out in any way, shape or form that he could, drive cars, just help out.

[fol. 1607] Q. All right. Now, do you know about what time you went back to the hotel to see the man from CBS?

A. It was directly after I got on campus, approximately 5:00, 5:30 or 4:30, in there, in that area.

Q. All right, did you thereafter return to the campus?

A. Yes, sir, I did.

Q. And about what time?

A. Well, first of all, Mr. Katzenbach with the Justice Department was to give a talk to the newspapermen at the Ole Miss Motel and this was going to be scheduled for I guess, 6:30.

And my first duty was to find our cameraman. I forget what his name was. I think it was Dick Perez. And get him back to the motel for this interview.

Well, after I found Mr. Perez and whatnot, I went back to the motel and it was getting on towards 7:30 after we got this all straightened out, at which time a man by the name of Gordon Yoder, who works for the, one of the Movietone Motion Picture News-theatre type affair, had come back to the motel and told the story where he had been beaten up, his car had been demolished, all of his equipment, his cameras, his briefcases, all of his notes were still on campus and that, he just went on to tell the story of what had happened to him.

At that time I suggested perhaps I could go back on [fol. 1608] campus and retrieve some of his papers and documents, which was his lifework.

And so Dan said it was all right, so I continued, I went back up on campus around 7:30.

I drove my own car and I parked on the circle and I went then up to Mr. Yoder's car and I got as much camera equipment and whatnot as I could and loaded it in my, back in my car, and came back to the Ole Miss Motel.

When I was at—when I was going around trying to get this equipment, I had noticed that the students that were spectators were getting very restless, cat-calls, a lot of swearing, and I saw a couple of missiles thrown.

There was a, some type of a fire bomb which was thrown on what they call a deuce and a half, the National Guard. It's a two and a half ton truck. And it landed on top of the canvas and then I went, as I say, left and just as I was leaving the back part of the campus, I noticed where the crowd broke and started running in all directions.

Now I don't know why. I presume—and I say it's only presumption—that tear gas had been thrown at that time.

Q. You didn't see the tear gas?

A. No, sir, I did not.

Q. All right, you left the campus then, say, sometime before the tear gas was fired?

[fol. 1609] A. Yes, sir.

Q. And then where did you go?

A. I went back to the Ole Miss Motel, gave Mr. Yoder the briefcases, spiders, tripods, camera, whatnot.

And then I proceeded to see Mr. Neal Straucher who is, also, a CBS correspondent, who was at the motel at this time, and I told him what I had seen, as far as the crowd, what was happening, the fire bomb, or whatever it was.

And then the reports started coming in that the riot had started—

Mr. Watts: If Your Honor please, just a minute. The reports would clearly be hearsay.

Mr. Gooch: That's right.

The Court: Sustained.

By Mr. Gooch:

Q. All right. Now how long did you stay there at the Ole Miss Motel before you went back to the campus, if you went back to the campus?

A. Maybe 30 minutes; 15-30 minutes.

Q. Well, after you had carried Yoder, his equipment, such as you could retrieve, back to the motel, did you then return to the campus?

A. Yes, sir.

Q. Would you have any idea about what time you got to the campus?

A. Well, I would say it was approximately 8:00—8:30, [fol. 1610] although I don't—I really have no way of knowing.

Q. Well, will you describe what you saw when you returned to the campus at that time?

A. Well, the reason why I returned to the campus was that when I understood that the riot was going on, I knew that a man, another newspaperman, had a portable tape recorder and I asked if I could take the tape recorder on my person and go up on campus and just record noises of the riot.

And this I did. And I went back on campus and just milled around in the crowd and took recordings.

Q. All right. How long would that tape play?

A. Well, the tape, as far as, if it had been rewound all of the way, it would have lasted approximately an hour. However, the man who loaned me the tape recorder only rewound it for 15 or 20 minutes.

Q. All right. When you got back to the campus there with your tape recorder, what did you do?

A. Well, I just milled around in the crowd and for a time—of course, once I got on campus, I turned the tape recorder on and adjusted it and just left it alone because I didn't want to play with it.

I had the microphone in this hand (indicating), with the cord running up my sleeve and I had the actual recorder under my belt and I carried it sort of to conceal it because it's—it wasn't exactly an intelligent thing to be doing, run-[fol. 1611] ning around that campus as a newspaperman or stringer or what-have-you.

I just got noises, tear gas bombs exploding, people screaming, conversations, what-not, that were irrelevant.

Then after a time went by I noticed over on my left—let's see, do you have any kind of display?

Q. Let's take a look at this map down here, if you will. That's Plaintiff's Exhibit 11. And there is a pointer there if you want to detail where you were and what you saw, just try and give the jury a graphic picture.

A. Thank you. Well, I was right in this area right here. I had been milling up and around back over in here and

I was right, oh, right about here when I heard an awful lot of people to my left saying, "Let him through. Let him through. Make way," and what-not.

And as I came over to see what was going on, people said, "Here is General Walker. General Walker is here. Here is our leader. What should we do?"

And so General Walker continued on to right in front of the monument. There is this statue of a rebel soldier at the beginning of the monument or which I refer to as the monument. And he stood there for a moment. He didn't say anything.

And then people continually said, "What shall we do? Tell us what to do." Of course, the riot was going on all [fol. 1612] the time, all up in through here (indicating), the tear gas bombs and what-not.

Behind me on my right somebody screamed out, "General Walker, we got a movie," or "a newspaperman and we tore up all of his movie equipment and we beat him up," and General Walker said, "Good. Good."

And then again Mr. Walker didn't say anything and people started, "What shall we do? Tell us what to do." And there were other comments made but the one that really sticks out in my mind was that General Walker said, "How long has this been going on?"

And again back from my right a voice came out and said, "About an hour."

And he said, "Well, keep it up all night. We have got more people coming."

Q. Then what happened?

A. Then there were some other comments, sort of vague in my mind and I won't refer to them.

But General Walker then started walking in a northwest manner at a steady pace, going up towards the Lyceum Building.

Now by this time there was, well, I tried to stay as close to him as possible with this tape recorder because I figured that I was getting a recording and what-not, which,

as it turned out, I wasn't, but, at any rate, we continued on [fol. 1613] up the circle at a steady pace and got up to about here, I would say (indicating), right where the "H" is.

Q. You have indicated a position west of the crosswalk that runs north and south through the circle?

A. Yes, sir.

Q. All right. Now as he went in that direction, what happened to the people that had been down around the monument?

A. Well, they sort of fell in behind him. It was, oh, possibly from, oh, here to the crosswalk (indicating) was the main body of people.

Of course, all the time there was still people running all around in this whole area and as they walked up to about where the "H" is, the Marshals fired a heavy barrage of tear gas.

Well, at this point, General Walker turned to the south and started cutting across, going over to here (indicating).

Now when this barrage broke loose, most of the people that were behind us broke off and ran back over here and back here.

Well General Walker at this point—well, let's see, there was—we got over here and it was sort of as if he were reconnoitering, just looking around, and another heavy barrage of tear gas came and I figured, well, this is time for [fol. 1614] me to come—go home, so I just—I left General Walker in this area; came back and got my car and went back to the Ole Miss Motel.

Q. As General Walker, as you have described, walked west there, was anybody around him?

A. You mean walked over here (indicating)?

Q. No, as he started from the monument?

A. Oh, yes, sir—oh, you mean directly next to him?

Q. Yes, sir.

A. Yes, sir, there was a heavy-set man which I believe is the Sheriff in one of the Mississippi counties, he was a very heavy-set man..

Q. Anybody else?

A. Well, I only remember the, this one individual.

Q. How close were they together?

A. Well, right, as they just started walking off, it looked as if General Walker may had of gone over to say something to him, just leaned over and possibly said something and just sort of like a little conference, and they just took a few steps and then General Walker headed back off in that area.

Q. Now when General Walker and the Sheriff or Deputy Sheriff took off, what happened to this crowd that was behind him?

A. Well, it just followed—just everybody fell in behind [fol. 1615] him. I don't know, everybody had been screaming, "Tell us what to do. Show us what to do. You are our leader. Follow— Let's go."

And, well, when he started walking off, everybody just fell in behind him and went with him.

Q. Would you estimate the size of that crowd that went up there behind General Walker at that time?

A. Oh, I'm not very good at estimating figures, but it would, I would say several—several hundred people.

Q. Take your seat, please, sir, unless you want to mark something else.

After you decided it was time to go home, what did you do?

A. I continued back and got in my car and continued back to the Ole Miss Motel. I ran over a piece of glass or something which slit one of my back tires and it blew out, so I had to park my car and continue at a half walk, half run affair. And when I got back to the motel, I immediately handed the film, or the recording to Dan and told him what I thought was on it and he seemed very, very pleased—

Mr. Watts: Now, if Your Honor please, this is getting out of the realm—

Mr. Gooch: That's right, just what you did.

The Court: Just what you did.

A. Well, all right. At any rate, I handed him the tape [fol. 1616] recorder and then we sat and we played it back and there were sounds and what-not and then it just went blank and I didn't know why it stopped recording until Cecil said that—

Mr. Watts: Just a minute.

Mr. Gooch: Never mind.

A. All right.

By Mr. Gooch:

Q. In other words, you didn't have any of the conversation with General Walker on there?

A. No, sir, I did not.

Q. All right. Now did you return to the campus later?

A. No, sir—well, just to go back to my room and go over—just go to bed.

Q. Do you remember about what time you went back to the campus that night?

A. Well, there had been reports that several people had been—

Mr. Address: That's not responsive.

The Court: He asked you what time you went back.

A. That's what I'm trying to think. Let's see, it would be 11:00 o'clock, I would say I went back.

By Mr. Gooch:

Q. Did you see General Walker at the time you went back?

A. No, sir.

Q. Did you see him any more after you saw—

A. No, sir.

[fol. 1617] Q. —after you saw him going ahead of that group up towards the Lyceum?

A. No, sir.

Mr. Gooch: Your witness.

Cross examination.

By Mr. Watts:

Q. You are a member of the so-called news media, are you?

A. If—I work with CBS, which is a member of the news media, yes, sir.

Q. Did you study journalism at the University of Mississippi?

A. No, sir, I am taking—I am majoring in advertising—and as, through advertising, we are studying the medias of newspapers, magazines, radio, television, direct mail and what-not.

Q. Are you still in Mississippi University?

A. Yes, sir.

Q. Live in Delaware, I understand?

A. Yes.

Q. Did you know this young lad Van Savell, or Savell, I think he calls himself, with the Associated Press?

A. Yes, sir, I did not—I do not.

Q. Sir?

A. I do not.

[fol. 1618] Q. Have you ever seen him or talked to him at all?

A. Not to my knowledge.

Q. Have you ever talked to anyone who purports to know him or is a friend of his?

A. Yes, sir.

Q. Friends of his you have talked to—

A. Yes, sir.

Q. And have they briefed you on Savell's testimony by deposition in this case?

A. No, sir.

Q. You haven't heard a word of his testimony?

A. Well, I—not of his testimony, no, sir.

Q. Have you heard a word of what his story purports to be?

A. Just what he read or what he wrote in the, in his—I haven't heard. I read the article, that's all.

Q. I see. You have then read that Savell wrote that utilizing his youth to the fullest extent, and so forth, and so on, he participated in a crowd of a few students and many outsiders as they charged the Federal Marshals, Walker first appeared in the riot area at 8:45 Sunday, nattily dressed, the crowd welcomed Walker, one unidentified man queried Walker as he approached the group, "General, will you lead us to the steps?"

That, "I observed Walker as he loosened his tie and shirt [fol. 1619] and nodded yes, without speaking. He then conferred with a group of about 15 persons who appeared to be the riot leaders.

"Walker assumed command of the crowd which I estimated to be at a thousand but it was delayed for several minutes when a neatly dressed, portly man of about 45 approached the group. He conferred with Walker for several minutes.

"Two men took Walker by the arms as they headed for the Lyceum and Federal Marshals.

"Throughout this time I was less than six feet from Walker.

"This march toward tear gas and some 200 Marshals was more effective than the previous attempts. The crowd was unarmed but the crowd said this was the moral support they needed.

"We were met with a heavy barrage of tear gas about 75 yards from the Lyceum steps and went back a few feet further before we had to turn back.

"Before doing so, many rioters hurled their weapons, bricks, bottles, rocks, sticks. We fled the tear gas and charging Marshals.

"I went to a telephone. A few minutes later I returned and found Walker talking with several students. Shortly thereafter, Walker climbed half-way up the Confederate monument and addressed the crowd."

[fol. 1620] You have read that news account, haven't you?

A. Yes, sir.

Q. And that substantially is what you say you saw when General Walker first came to the campus?

A. Yes, sir, I did not see the last part of it when he addressed the—when he climbed up on the statue.

Q. But everything that you have related to this Court and jury, young man—and will you step down here, please?

A. Yes, sir.

Q. —took place before General Walker mounted the statue?

A. Yes, sir.

Q. In other words, you never did see him get on the statue at all at the time you were there?

A. Not get on the statue, no, sir, he didn't.

Q. You have seen Reverend Duncan Gray out in the hall, haven't you?

A. I saw him.

Q. As you moved or allegedly moved across this quadrant of the circle, the northeast quadrant of the circle with General Walker in front of you and a neatly dressed, portly man by his side and a group of people behind you, did you encounter the Reverend Duncan Gray out in here?

[fol. 1621] A. I did not recognize him or see him to my—

Q. Now, were there only one or two men that had General Walker by the arm?

A. Well, there may have been two. I only remember seeing the one. There were people running all around the place and I do distinctly remember seeing one. There may have been two.

Q. And how far in front of the crowd was this one man that was holding General Walker by the arms?

A. Well, he was right next to the General—General Walker.

Q. Did he have hold of his left arm like this (indicating), or his right arm?

A. Well, let's say I was General Walker.

Q. You are General Walker and sort of be—

A. Sort of be like this.

Q. Like this (indicating)?

A. Yeah, and I came over and possibly said something to you or something like that.

Q. And did the portly man lock arms with General Walker like this?

A. No, it was more like this (indicating).

Q. Like this? I see. As they marched towards the Marshals, were they in step (indicating)?

A. Well, I don't know if they were in step together. In [fol. 1622] fact they—to me, as I recall, they had just walked along and you went—we got apart and then continued.

[fol. 1623] Q. Were they strolling, or were they moving rapidly?

A. Well, they were just going at a steady pace.

Q. And how far behind General Walker and this portly man walking toward the monument, the Lyceum, were you?

A. Well, I was trying to stay out close to them, as possibly as I could.

Q. The question is: How far behind them were you?

A. I would say approximately ten feet. Ten feet to the immediate rear.

Q. Were people in front of you and General Walker—in between you and him?

A. Yes, sir, they were around, all around him, but I tried to stay to the front.

Q. Now, at the time you tried to stay to the front of this crowd, how large was the crowd?

A. As I say, it was approximately several hundred. I am not very good at estimating how big, but it was—the crowd was all back in through here (indicating).

Q. Were they lined up pretty much abreast behind General Walker?

A. You mean in file and block formation, military manner? No. It was just a mass mob.

[fol. 1624] Q. Well, was the front relatively straight?

A. Well, it was just—in a manner of speaking, yes. Not as a straight line.

Q. And how far from the front of the group was General Walker and this portly man?

A. Oh, it would be—I would be in the very front of the crowd, be about here (indicating).

Q. How far did the right flank extend toward the north side?

A. I would say approximately almost to the—to the road, because you had people, you had the main body, and you had people over to the right, more or less, and a lot of people on the left carrying on the attack against the Marshals.

Q. By the left, you mean down at the southwest quadrant?

A. Well, of course, the main body was here (indicating).

Q. All right.

A. Then we had people over here and people over here, and people all over the place.

Q. Now, as General Walker and the portly man advanced toward the Lyceum with you ten feet behind him, in this vast crowd of people, how far was the left flank of this group extending to the south?

[fol. 1625] A. Speaking of the left flank as a separate bunch?

Q. No, the flank is the left end.

A. The left side?

Q. Yes.

A. It is not as if it was a Military formation where you have a direct—direct line to make. They had the—he had a mob, a group of people that were hysterical, or something was wrong with their minds, then over on the west you had people running up and down all over in this area, you had people continuously throwing broken bottles and what not.

Q. Now, just a minute right there. When you saw General Walker and this man across the northeast quadrant of the intersection, were there still people running out and throwing bottles up ahead of you?

A. No.

Q. They were behind?

A. Well, this is something I noticed. There was no one ahead.

Q. In other words, the people nearest the Marshals as General Walker and this man marched out across that quadrant were General Walker and this man, is that right?

A. Yes, sir, he was in front.

Q. And nobody was between him and the Marshals?

A. Oh, there may have been one or two people. May have [fol. 1626] been more than that, but not many.

Q. But as far as you saw, and what you are trying to tell this Jury, or what you are telling this Jury, is that in front of this crowd of which you were a part, that General Walker and the man, and in front of that were the Marshals?

A. Basically, yes. Sidewalk up here.

Q. What did they do.

A. Well, they continued walking up to approximately the point here.

Q. Would you measure down here on this scale and tell us how far that is?

A. Approximately seventy-five feet.

Q. About seventy-five feet in front of the sidewalk?

A. Yes, sir.

Q. All right. Now, then, tell us what happened.

The Court: Talk a little louder. The Reporter can't hear you when your back is toward him.

The Witness: Yes, sir.

Q. Tell us what happened as Walker and this Marshal—and the portly man—strike that.

Did you see whether this portly man had a badge on?

A. When General Walker approached I seem to remember he did flash a badge. I don't know whether he had it on [fol. 1627] his tie or inside his jacket.

Q. How big was the man?

A. He was a big individual. I would say he would probably wear a 46 coat.

Q. Was he still hanging onto General Walker's arm as he tried to cross this sidewalk?

A. No, sir, I don't believe he was.

Q. When did he turn loose?

A. Back over here (indicating).

Q. Did he stay then some eight or ten feet ahead of the crowd?

A. Yes, sir.

Q. As they crossed the north-south sidewalk, what did they do?

A. As they got up there they just continued walking.

Q. As they got up to this point you pointed out seventy-five feet from the sidewalk, what did they do?

A. Well, when they were getting to the Marshals at the Lyceum the tear gas—they started throwing their bricks and bottles and ran, and then there was the tear gas fired, and then General Walker went to the left and went south, at which point there was another round of tear gas fired.

Q. Did he walk or run?

A. He was walking.

[fol. 1628] Q. Did he ever run?

A. No, sir.

Q. Never ran at all?

A. No, sir.

Q. Did he walk casually, slowly, or how?

A. He just walked—he kept a steady pace the whole time.

Q. And how far did you observe him walk toward the south?

A. He walked to approximately right here (indicating).

Q. Did he stop?

A. Just—well, I don't remember if he stopped or not. I remember we had a second barrage, a big barrage of tear gas, and there was a Marshal coming towards him from the Lyceum, and that was when I retreated to the rear.

Q. You were following very closely, then, General Walker all this time?

A. Yes, sir, when I got into this area I was within a very few feet of him.

Q. Do you remember seeing, or identifying one Van Savell, a rather plump, rather short individual, along closely observing and watching General Walker?

A. No, I was watching General Walker and I was trying to watch the Marshals because they had clubs and I didn't want to get caught.

[fol. 1629] Q. And did you stay on with General Walker after this point here?

A. Yes, sir.

Q. And where did he go from there?

A. I don't know. That is where I left him.

Q. At no time you saw him run?

A. No, sir. Well, you couldn't actually run because when you run into tear gas you quickly discover your eyes become extremely tender and you can't really see where you are going.

Q. From the time tear gas was fired, would you say that Walker raced back toward the monument?

A. I don't know what Walker did from this point on.

Q. If he did any racing at all it was after you and he walked slowly from this point some seventy-five feet southeast of the walk to where the missiles were thrown?

A. He didn't walk slowly.

Q. How did he walk? Walk out across there and show us about how he walked?

A. (Witness demonstrates.)

Q. All right. Now walk back.

A. (Witness demonstrates.)

Q. And did that gait continue all across this northeast quadrant of the Circle and the northwest quadrant of the [fol. 1630] Circle?

A. Yes, sir.

Q. And did that same gait continue from the northwest quadrant of the Circle into the southwest quadrant of the Circle, after the gas was fired?

A. Yes, sir.

Q. And that was the last you saw of him?

A. Yes, sir.

Q. All right. Sit down. Did General Walker assume command of this crowd as stated by that article read you, down by the flagpole?

A. General Walker was—you could say he assumed command. He continued going forward in front of the leaders, leading the mob, yes, sir.

Q. And did you see down in that mob one of the leaders waving a big Confederate flag as General Walker appeared at the monument?

A. I don't remember seeing it. I know what—I know there were some big Confederate flags being waved down there. I don't remember seeing any—

Q. Well, would you say one of the lads who came up to General Walker may or may not have—and may or may not have taken him by the arm, was waving a big Confederate flag?

A. Would you repeat that?

[fol.1631] Mr. Watts: Repeat the question, please.

(Question read.)

A. I don't remember seeing anything like that.

Q. Now, after you left where did you go?

A. After I left General Walker, I went back to my car.

Q. Then what?

A. Then I continued in my car back to a point, and blew out a tire, and then I went back to the Ole Miss Motel, and gave my tape to Dan Rather.

Q. Dan who?

A. Rather.

Q. How do you spell that?

A. R-a-t-h-e-r (spelling).

Q. And what was his official position with CBS?

A. He is CBS—at that time he was a CBS correspondent, and out of the Dallas Bureau, and Bureau Chief.

Q. He was the Chief CBS correspondent in the area at the time?

A. He was not in this area, but as far as the—

Q. Excuse me, I mean in the Oxford area.

A. In the Oxford area they had people coming in and going out. I don't know who would have control of this CBS Bureau. It is more—I couldn't say that.

[fol. 1632] Q. To whom did you look for orders and directions?

A. Well, mainly from Dan.

Q. And when you got back there did you report to Dan—

A. Rather.

Q. Rather. Did you report to him that you had seen General Walker come up University Boulevard, confer with the leaders of the mob, issue—assume command of them and then march in front of a group of several hundred people, as you have outlined to us?

A. Well, as I think about it, Dan was in Memphis, or he wasn't—I remember talking to Neil Strauser. He was on the telephone.

Q. Well, to whom did you repeat this?

A. Well, this is what—well, I started to—

Q. Let's back up and start over again, son. You got in your car going to the Ole Miss Hotel?

A. Right.

Q. You are sure you were in your car?

A. Yes, sir.

Q. You are sure you had a flat tire?

A. Yes, sir.

Q. From that point on let's go on. What else are you sure of?

A. Yes, sir.

[fol. 1633] Q. Do you remember arriving at the hotel?

A. Yes, sir.

Q. Do you remember seeing Strauser?

A. Yes, sir. It was Neil Strauser.

Q. What did you tell him?

A. I told him General Walker was on campus and that I had a tape recording and that the riot was going on and I had recordings of General Walker and I had some recordings of the sounds of the riot.

Q. And who was this gentleman Neil—Rouser was it?

A. Strauser, another CBS correspondent.

Q. How do you spell that?

A. S-t-r-a-u-s-e-r (spelling) or f-e-r, I am not sure.

Q. All right. Go ahead.

A. Now, you see these newspaper, or these correspondents—there must have been seven Bureau Chiefs in from all over the country, from out of New York, and it is difficult to remember exactly who you see, but I did most of my dealings with them, really, and that is why I imagine the name pops up in my mind, but I gave—or we found Cecil—I am sorry, I don't have his last name. He was the man whose tape recorder this was. Then we played the tape back and we heard what was on it and we—I don't [fol. 1634] know what happened after that.

Q. Did you by any chance report this story, or relate this story to anyone associated with Associated Press?

A. No, sir.

Q. You are sure of that?

A. Positive.

Q. Go ahead. You were going to tell us what you told the gentleman at the Ole Miss. You handed him back the tape recording?

A. Yes, sir, and I said—

Q. Go ahead.

A. "General Walker is on campus and I have got recordings here, let's hear them." As much as said, "Let's find out what I have got."

So, then, we proceeding to play the tape back.

Q. Is that all you said to him?

A. Well, I was anxious to hear what was on the tape, yes, sir.

Q. And how long did your conference with him last?

A. Just a few minutes until we started playing the tape back.

Q. Well, now, as you—or did you at that time tell any person connected with the Associated Press this story you

just outlined from the witness stand?

[fol. 1635] A. No, sir.

Q. Did you ever tell anyone connected with CBS?

A. Yes, sir.

Q. Well, who?

A. Well, Neil Strauser and these people I had been talking to, all of these CBS people.

Q. When did you tell them that?

A. When I took the tape back.

Q. I thought you said when you took the tape back you just returned it.

A. No, I said, "I have a recording."

Q. Well, I asked you, young man, to tell us exactly what you told the CBS representative when you got back to the Ole Miss Hotel? Tell us.

A. Oh, I am sorry, I thought I had.

When I went back to the Ole Miss Hotel, I went to room—the CBS room where I knew these individuals were, and I took the tape recording with me, and handed it to them, and I said, "General Walker is on campus. I have a recording here of the sound of the riot, and I think I have a recording with General Walker on it."

And then we proceeded to listen to the tape.

Q. All right. What did you say in addition to what you testified to? Tell us what was said, what your report was.

[fol. 1636] A. Well, I don't remember what all went on, what all went on at that particular meeting. I haven't given it much thought.

Q. Well, you remembered all of these other things. Tell us what you told the CBS personnel there at the motel, or anywhere else.

A. I really—I told them, well, last night we listened to the tape.

Q. All right, go ahead.

A. All right. We listened to the tape, and we discovered that the tape had malfunctioned, something happened, which it turned out later it had not been re-wound to that extent, and then I said, "Well, what happened is General

Walker came on campus, and then I related to them exactly what I related here, except perhaps not in as much detail.

Q. Who is "them"?

A. CBS.

Q. Who is CBS?

A. Neil Strauser.

Q. Who else?

A. I believe Nelson Benton had come in by this time. I think Dan Rather had gotten back. I don't remember what all was going on.

Q. Do you know what they did with that report?

[fol. 1637] A. Yes, sir. You mean the recording?

Q. No, the report you had made to them.

A. No, I don't know what they did with it.

Q. Do you know if your reports were secondhandly turned over by them to the AP?

A. No, sir, I do not. I don't know.

Q. Did you ever discuss that with them?

A. No, sir.

Q. And that is all you know about this?

A. Well, yes, sir. My tape—the tape was—the tape that was good was put out on CBS news on some of the broadcasts.

Q. Where is that tape now?

A. I understand—well, my copy was destroyed by accident. The Justice Department, I believe, has a copy and CBS is supposed to have a copy.

Q. Did you also appear before the Grand Jury in Mississippi?

A. Yes, sir.

Q. When was that?

A. I don't remember.

Q. January of '63, perhaps?

A. Yes, sir.

Q. Were you subpoenaed to come here today?

A. Yes, sir.

[fol. 1638] Q. When did you get the subpoena, before you left or after you got here?

A. After I got here.

Q. Who arranged for you to come?

A. The Associated Press, or—Mr. Smith, I believe, or Mr. Leon Pearl.

Q. Is that Mr. Leon Pearl from New York?

A. Yes, sir.

Q. You personally discussed this, then, with Mr. Leon Pearl?

A. No, sir.

Q. Who have you discussed it with?

A. Mr. Gooch, Mr. Smith and the other lawyers.

Q. What other lawyers? When and where?

A. You mean from the Grand Jury to today?

Q. Well, don't—

The Court: You can't tell about the Grand Jury.

The Witness: I know I can't. Just to Mr. Gooch and Mr. Smith.

Q. How soon after the incident?

A. After what incident?

Q. After the riot of September 30th.

A. After the riot? Well, I was just contacted by them the last part of school, which would be in June.

[fol. 1639] Q. Oh, yes, speaking now of riots, how long did you hear General Walker talk to these lads in the vicinity of the monument when he first came out?

A. I would say he talked to the group approximately four or five minutes.

Q. Well, he also talked to the individuals, didn't he? Didn't people come up and shake hands with him and say, "General Walker, I am so and so,"?

A. I don't remember anyone coming up like that.

Q. He just talked generally to the group?

A. Yes, sir. He stood in front of the monument, and then the group gathered sort of around him, people just in a semi-circle.

Q. And various individuals would come up and report to him things that had happened, didn't they?

A. Yes, sir.

Q. Did you ever hear him in answer to any of those reports say, "Riot, riot"?

A. I don't remember. He may have.

Mr. Watts: That is all.

Mr. Gooch: Stand aside. Thank you.

The Court: Going to release this witness?

Mr. Gooch: Yes, sir.

The Court: I will let you go back home.

Mr. Gooch: Call Mr. Proehl.

[fol. 1640] DONALD JAMES PROEHL, called as a witness by the Defendant, having been first duly sworn, testified as follows:

Direct examination.

By Mr. Gooch:

Q. Please state your name?

A. My name is Donald James Proehl.

Q. Where do you live, Mr. Proehl?

A. I live on the University of Mississippi campus, in the back of the campus, the Village Apartments they are called.

Q. Have to speak out a little louder.

A. I live on the campus of the University of Mississippi, in the back of the University grounds, called Village. And my wife and child and I live there.

Q. How old are you, Mr. Proehl?

A. I am twenty-nine years old.

Q. Are you or have you been a student at the University of Mississippi?

A. Yes, sir, I have.

Q. When were you first enrolled as a student in the University of Mississippi?

A. I started to school in 1953. I stayed down there a year and I left and went into the Army and spent three [fol. 1641] years in the Army over in Okinawa and Japan, came back to school on the GI Bill. I stayed at Ole Miss for one year, and after that I went up North to work. I went to work for the Western Electric Company for four years in the engineering department and then came back to Ole Miss to finish up on the GI Bill.

I have gotten my undergraduate degree in education, a school teacher in history, and I received my Master's Degree in Guidance Counseling in September.

Q. All right. Are you working now, Mr. Proehl?

A. Yes, sir, I do various and sundry odd jobs. My wife and I are putting ourselves through school. I work in a factory on the night shift from 7:00 at night until 5:00 in the morning and I go to classes during the day, and previous to this job I worked as a bouncer at fraternity and sorority parties, and I referee athletic events on the campus, work with the physical education department, take tickets at the theatre up town, and you name it, I have done it.

Q. When do you sleep?

A. In class.

Mr. Watts: I think that's immaterial.

[fol. 1642] Q. Directing your attention to September the 30th, 1962, were you on the campus of the University of Mississippi on that date, Mr. Proehl?

A. Yes, I was.

Q. Had you been away from the campus that weekend?

A. No. My wife and I had stayed there. We didn't go to the football game in Jackson.

Q. All right. Directing your time down to around mid-afternoon, 4:00 or 5:00 o'clock, did you have occasion to be up near the Lyceum Building or in the circle?

A. Yes, we had gone to church and come home and eaten dinner and I had gone up town to the drugstore, I had driven up town and didn't go by way of the circle going up town but coming back I did and when I came back, I saw the Marshals and I went over and told my wife and she—

Q. You can't tell what you told your wife.

A. I told my wife—

Q. I say, you cannot tell what you told your wife.

A. Oh, I cannot? I am sorry.

Q. That would be hearsay. You went home and then what did you do?

A. I got my wife and we went—brought the baby and my neighbor across the hall and we came back to the circle.

Q. And when you got back to the circle, what did you see?

[fol. 1643] A. I saw Marshals surrounding the Lyceum Building and a crowd of students and adults in the front.

Q. All right. How long did you remain there in front of the Lyceum Building when you came back with your wife and baby?

A. I brought my camera with me. I wanted to take some pictures. And we stayed there, oh, I would say about an hour and 45 minutes, maybe two hours.

Q. What was occurring, if anything, between the people and the Marshals and the Highway Patrolmen, if anything?

A. Oh, the Marshals were surrounding the building and the students were laughing and calling them names. The Marshals were laughing and joking right back with them and they called—am I allowed to recite some of the names they called?

Q. I guess you'd better not.

A. Oh, not curse words, I mean, just—

Q. All right.

A. I put my little girl up on my shoulders and went up to the front of the crowd. The wife stayed behind on the

grass and I watched for a while and I saw a boy with a Confederate flag on a long pole waving it up there and the students were actually just, to me it looked just like good-natured fun, to start with, and then it started getting [fol. 1644] rougher as time wore on.

Q. All right. When it started getting rougher, how did it get rough?

A. Oh, things were thrown. I couldn't say exactly what. Two, three army duce and a half, Army trucks came in with more Marshals on them.

I took some pictures of those, also, and some of the students started flipping, and grown-ups, flipping lighted cigarette butts up on top.

In fact, the Marshals were laughing and joking about it. I have one picture where the Marshal is bending down, joking with the students.

Like I said, I looked like—it was actually good-natured fun there for a while.

Q. After it—did it ever quit being good-natured fun?

A. Oh, yes, I started—as I said, I had my camera there and I saw some of the photographers start having their cameras taken away from them, tape recorder, and being smashed, and things starting to get rougher and so I told the wife and child to go home and I gave my wife my camera so mine wouldn't be destroyed and I sent them on home.

Q. Did you remain there?

A. Yes, sir, I did.

Q. Were you there when the tear gas was fired?
[fol. 1645] A. No, sir, I wasn't.

Q. Where were you when the tear gas was fired?

A. About 10 minutes before President Kennedy was to come on TV, the YMCA is located kitty-corner on the circle there and I had actually stayed there because I wanted to hear Kennedy on television and I had left with another band of students who I cannot place who they were, just a small group of students, we had gone, we went over to the "Y", and—early to get a seat because we knew the place

would be packed and I was not present when the tear gas was fired.

First thing I knew was my eyes started smarting.

Q. All right. Now you did listen to President Kennedy's speech over in the "Y"?

A. Yes, sir, I did.

Q. After the speech, where did you go and what did you do?

A. After the speech, we had—oh, I remember explicitly two boys came in. One of them had been shot with bird-shot, you know, "Boy's been shot. Boy's been shot," and pulled up his shirt and we saw a lot of the pellets or little red marks on his back.

After Kennedy's speech, I tried to look out the window. It was pretty hard to see with the tear gas and all. And at times I would go to the door and try to look out the doors. I was worried—I wanted to get back to the apartment [fol. 1646] but I didn't know how to get back.

I saw some Marshals and students actually fighting out in the grove, maybe one Marshal and one student or two Marshals and a student.

And so I stayed in the safest place. I stayed in the "Y".

At times, as I said, I would go out and look out the door and that's all.

Q. All right. Now after you came out of the "Y", let's get down to it, did you ever see Walker that night?

A. I heard in the "Y" that General Walker was—

Mr. Andress: We are going to object to that.

The Court: No, sir, he asked you if you saw him.

A. If I saw General Walker? Yes, I did.

By Mr. Gooch:

Q. Where was General Walker when you saw him?

A. He was standing on an elevated portion of the Confederate statue, on the front of the statue.

Q. Now you had not seen him prior to the time you saw him standing on that campus?

A. No, I hadn't.

Q. On that monument?

A. No, sir; I hadn't.

Q. Did you hear or were you able to hear—well, now where were you when you saw him standing on that statue? [fol. 1647] A. You could make an outline, a sideview outline of a man—

Mr. Address: If the Court please, this is not responsive.

The Court: Overruled. You may proceed.

A. You could see the side profile, let's say, of a man standing up there. I couldn't distinguish who it was until I got up there and I pushed right to the front, pushed right up.

I was within, oh, maybe three or four feet from him, stood right up, could look right up at him, and I saw General Walker with his white hat on.

Q. All right, did you hear any of the statements that General Walker made there in his speech there that night?

A. Yes, sir, I did.

Q. Will you detail as best you can your recollection of what you heard General Walker say on the monument there that night?

A. I heard him tell the students that they had a right to protest under the Constitution; that they were doing the right thing, and that he would lead them in this protest.

Q. Do you remember anything else he might have said?

A. There were things I am not sure about. I wouldn't [fol. 1648] want to say. I am sure I did hear this, though.

Q. All right. Did you see Reverend Duncan Gray there while General Walker was on that monument?

A. Yes, Duncan—Reverend Duncan Gray and myself and a man I don't know, the three of us met actually on the steps of the Y and walked over to hear him talk, hear General Walker speak and Gray went right up there with me and I was there when somehow Gray was pulled off the

monument. I don't know who did it but I was there and I helped pick him up and get him over to the trees and then take him back to the Y.

Q. Did you hear General Walker say anything to Reverend Gray there that night?

A. Yes, he said that we have—he says, put his hand (indicating), “We have an Episcopalian minister here.” He said, “I am an Episcopalian but when we have ministers like this in our church, it makes me ashamed to admit that I am an Episcopalian.”

Q. Then what happened to Reverend Gray?

A. Somehow he was down on the ground. The events were so hurried, the crowd had been yelling, “Kill him, kill him,” pertaining to Duncan Gray.

The crowd was worked up and . . . just for Duncan Gray's life, actually, and got him over to the tree, I mean and got him back to the Y, the steps on the Y.

Q. Did you see General Walker after you had assisted [fol. 1649] Reverend Duncan Gray away from there?

A. I did not see General Walker at—when I took the Reverend over to the—when we went over to the trees, the crowd started to surge forward and I could not see General Walker then at all.

Now when we went across the street, I stood up on the steps of the Y and I was able to see General Walker up at the head—not at the very front because you had stragglers of people out there in advance, one or two people out in advance, but I saw General Walker right up near the front, yes.

Q. All right. What direction was General Walker and this crowd moving?

A. They were moving towards the Lyceum Building.

Q. And how far did you see them get?

A. I saw them get, I would say, midway between the flagpole and the front of the Lyceum Building.

Q. Then what happened?

A. Tear gas was fired and they all turned around and ran.

Q. Now did you see General Walker after that that night?

A. No, sir, I didn't. I didn't see him any more.

Mr. Gooch: Your witness.

[fol. 1650] Cross examination.

By Mr. Address:

Q. How do you spell your name, Mr. Proehl?

A. P-r-o-e-h-l.

Q. h-l?

A. Yes.

Q. German name, I take it then?

A. Yes, sir.

Q. Now what time was it that you decided this was no place for the—for your wife and baby?

A. It was approximately—now I would say it was approximately 5:30. Now I had taken these colored slides and one of the slides showed the time on the clock as 10 minutes after 5:00. It was just about 20 minutes, or so, after I took these that I sent them home.

Q. Well, then you must have gotten there on the campus about 2:30, at the circle?

A. Well, no, I came back from the drugstore, I think it was about 3:30, quarter to 4:00, or so.

I didn't have occasion really to look at my watch then but I went home and Rose, my wife, dressed the baby and everything and she got some clothes on and we went back. I would say it was about, oh, a little after 4:00, maybe 4:30, closer to 4:30.

Q. And then when did you finally go home that night?

[fol. 1651] A. I don't know the exact time, sir. It wasn't too long after the last charge that they made, the large group that went up there. I wanted to go home. I didn't know how I could get back. We had expected company that night and I knew the company was already there.

Q. Well, now wait just a minute. When was the last time you remember looking at your watch before you started for home?

A. The last time I remember looking at my wife?

Q. At your watch?

A. At my watch?

Q. Yes.

A. I don't remember looking at my watch.

Q. In other words, then, you can't—you say it was about—you went to the Y just before the President made his speech?

A. Yes, sir.

Q. But from that point on you don't have any memory as to time?

A. I don't even remember if I had a watch on. There was a large clock up on the top of the Lyceum Building and I saw the time from that when President Kennedy was going to speak.

Q. And how long did you stay in the Y, as being the safest place, after the President's speech?

[fol. 1652] A. I wouldn't be able to say, sir. I—oh, may have been an hour, may have been two hours. Things, events that night happened so fast and everything, it's pretty hard to place the time.

Q. Well, you said you tried to look out of the window and the door there in the Y and you couldn't see very much?

A. No, sir, you couldn't. Gas and many people crowding there and you couldn't get to the phone. It seemed as though everybody was waiting in line for a telephone.

Q. You couldn't even see much out of the door of the Y?

A. You could if you went out and you stood on the steps but there were maybe one or two Marshals would come by and students were running out from in back of the Y and running across the grove and throwing things and the Marshals would come forward with tear gas and when your eyes would start to smart and burn, you would go inside.

Q. How much light was there out there on the campus that night?

A. There was quite a bit of light coming from the front of the Lyceum Building which would shine into the grove and there were lights in the grove for quite a while until they were broken out.

Q. And what other lights were there around?
[fol. 1653] A. I couldn't say right off.

Q. Now you said that after the General finished his speech on the monument and stepped down, that you couldn't see him there for a while?

A. No.

Q. Which direction was he standing at when he stood on the steps of the monument?

A. When he stood on the steps of the monument, he was facing towards University Avenue, which is east.

Q. And then when he got down from the monument, which way did he go?

A. I do not know, sir, because I was with Duncan Gray. We got him over to the trees.

The next time I saw General Walker—in fact, I could not see General Walker's face. I saw a man with a tall hat, unless—unless General Walker put his hat on somebody else, it was him. But I saw him up at the head of the large mass of crowd—

Q. I didn't ask you that.

A. You asked me the last time, or the next time I saw him, and that's when I saw him.

Mr. Goech: Just wait a minute.

By Mr. Andress:

Q. I asked when he stepped down, which way did he go around the monument?

A. I don't know.

[fol. 1654] Q. Now you then said after you crossed the street and moved away from there with the Reverend Gray, that you got up on some steps?

A. Yes, sir, I did.

Q. What steps did you get up on?

A. The steps of the YMCA building.

Q. Now you didn't see the General then from the time that you got off of the monument until you had walked back to get on the steps of the YMCA and that is where you had come from to begin with, wasn't it?

A. Yes, sir.

Q. And I believe that you said that when you came out of the YMCA there with the Reverend Gray, you could just see a figure down on the monument but you couldn't identify it?

A. You could see part—you could see that a person was standing up there but you couldn't tell—you couldn't tell if it was a man or a woman. You couldn't see until you got up close because—

Q. When you were there at the YMCA and starting down towards the monument, you could just see that there was somebody at the monument but you couldn't identify them?

A. Yes, sir, that's right.

Q. And you said that you couldn't identify them—who it was until you got up close and crowded in there into the [fol. 1655] first two or three feet?

A. That's right. I had never seen General Walker before.

Q. And then after you turned around and left and went back up to this same YMCA, from that point you could identify a white hat?

A. I could see a tall man in the front with a white hat, yes, sir.

Q. And outside of that, that was still just as difficult from the YMCA to identify people at a distance as it had been before, wasn't it, outside of the distinction of the white hat?

A. No, I am saying it was difficult to identify General Walker at the statue because the way the statue was standing and he was standing in front and you could only

see part of—well, the state was in the way. You can see part of a man's arm, part of a man's legs standing but you couldn't see who the man was.

But when I was looking across the grove, I could see that white hat distinctly right out in front there. I couldn't miss that.

Q. Was that the only white hat on the campus, Mr. Proehl?

A. The only man I saw. There may have been—

Q. You, of course, don't really know whether or not [fol. 1656] there were a lot of white hats there or not, do you?

A. I didn't see any other white hats in that crowd, where the people were standing out there, sir.

Q. You mean there weren't any other white hats that came up there by the YMCA where you spent most of the evening?

A. Pardon?

Q. There wasn't any other white hats that came up by the YMCA where you spent most of the evening?

A. I don't remember.

Q. Actually then from the time you sent your wife and baby home and just a few minutes before Kennedy's speech before you went to the YMCA, you never left the YMCA to get around anywhere except the one time that you walked down to the monument and then right back to the YMCA?

A. That is right, I did not leave the Y to go anywhere else. I met Duncan Gray right on the steps of the Y and another man and we walked down to hear the man speak.

Q. Is Duncan Gray a pretty good friend of yours?

A. No, sir, I don't—the first time I met Duncan Gray was that night. I have never been to his church. I am not of his denomination.

Q. At the time you first came out on the steps of the YMCA there with Duncan Gray, there was already a figure up on the monument, wasn't there?

A. Yes, sir, a figure was on the monument.

[fol. 1657] Q. So that how long did it take you to walk—I guess it must be what? 200 feet from the Y down there?

A. A hundred fifty, 200 feet. At a normal pace, I wouldn't know how long it took me to walk. Just at a normal pace.

Q. Were you hurrying down to hear his speech?

A. I didn't run, no. I didn't run. We walked. We didn't run over there.

Q. Strolled down?

A. Strolled down, that's right.

Q. And when you got there the speech was already in progress, is that right?

A. Yes, sir, it was.

Q. And all you say that you heard is the couple of things that you have mentioned here?

A. There were a few more things that I heard. I heard him say that—first, he said, your Governor had sold you out and I heard 'em say, no, no, and then he bent down and he talked to a man with a suit on in front of the crowd there and he raised up and said, "Birdsong has sold you out," I remember that.

Q. Was that about the time the Reverend Duncan Gray tried to climb up on the monument?

A. I don't remember if that was exactly at the time or not. I distinctly remember him saying that, though.

[fol. 1658] Q. And was it after that that his attention was attracted to the Reverend Gray?

A. It was after that his attention was attracted—

Q. What was Reverend Gray doing to attract his attention?

A. Well, the Reverend Gray was standing alongside of me up against the statue here and he said, he said, "You can stop this if you will.

"You can stop this." And that's when the General said. . . .

Q. Now then you left there with the Reverend Gray at that time and was the General still on the monument?

A. I do not remember if the General was on the monument or not.

Like I said, we went over to help Duncan Gray. The crowd had started to surge forward and I heard people yell, "Kill him, kill him, kill him," and from what I—the noise and tumult and everything that night, I didn't know what was to happen and, to me, a member of the church is a member of the church, no matter what—I mean you don't want to see a man done bodily harm and from the way the crowd was worked up there, I didn't know what was going to happen.

Q. Did the Reverend Gray ever say anything to you about hearing the crowd say, "Kill him, kill him, kill him"?

A. I don't remember Reverend Gray saying that to me [fol. 1659] but I heard the crowd say, "Kill him, kill him, kill him."

Q. Where did you all take back to?

A. Back to the Y, and that's the last I saw of Reverend Gray. Got him up to the steps. I don't know if he went inside or not. I stood on the steps.

Q. You were one of the people who took him?

A. Yes, sir, I was one of the people who took him over there.

Q. Was the Deputy Sheriff there, one of the people that helped you?

A. I remember the Deputy Sheriff going over with us towards the small trees, I believe—I'm not sure but I believe he was the one that said somebody take care of him, help him. But I don't remember the Deputy Sheriff—I don't think but I'm not positive that he went back to the Y. He wasn't with me.

Q. Well, did you say to the Deputy Sheriff, "Well, I know this man. We'll take care of him."?

A. I don't recall saying that.

Q. Did somebody there in your little group that took Reverend Gray back to the Y?

A. Somebody may have. I'm not sure. I don't recall that.

Q. But you were taking over the protection of the Reverend Gray from the Sheriff?

[fol. 1660] A. I was helping. I was helping, yes.

Q. Was the crowd around the Marshals still indulging in good-natured fun at the time that you went to the Y to listen to the President's speech?

A. No, it had turned a little bit more than fun. In fact, I saw one student, I don't know who it was, there was some more Army trucks pulled up and I saw a student say, "There is a nigger in there," the truck driver, Corporal. And they broke the truck window and they grabbed a fire extinguisher off the side of the truck and they squirted it in the window and the colored boy got out the other door. I heard tires hissing. I didn't actually see any slashing of tires but you could hear air escaping from tires so I assumed that tires were being—

Q. You don't know whether they were just letting the air out of the tires or cutting them?

A. Well, they weren't letting air out; otherwise they would have been chased away by the police, sir.

Q. At that time the Highway Patrol was between the Marshals and the crowd, weren't they?

A. I remember seeing some of the Highway Patrol, yes, sir.

Q. And mostly the crowd was back across the drive from the Lyceum?

A. They were pushed back, they were pushed back across [fol. 1661] and then it would lax, the Marshals or so would lax their attention there and the crowd would come back and cross and then they would be pushed back again.

Q. And there was nothing else that you can think of that you saw there that night about the circumstances? Just more of the same?

A. Yes. Now when I—I didn't know how to get back home. I was thinking about cutting around the back of the campus but I had heard or I had seen some Marshals being in conflict, let's say, with students or with people out in the grove and I didn't want to take a chance so I

raised my hands like this (indicating) and I said, "I haven't had a thing to do with it. I have been in here, I have got a wife and child at home and I want to get home to my family."

The Marshals said, "Come on. It's okay." They had their masks on. And the one took it off and said, "Come on." I didn't know what they were doing—what they were going to do with me but I wanted to get home and I was tired of all of it and I walked right through and the Marshals didn't do a single thing to me. In fact, one of them took off his mask, and said, "What's the matter? Those kids nuts or something?" And I said, "I guess so."

I kept on walking and I cut—

Mr. Watts: If Your Honor please, I don't believe this is responsive to the question and some place it has got to [fol. 1662] stop and I would object to it as hearsay.

The Court: Mr. Watts, Mr. Address asked what else happened out there that night.

Mr. Watts: He's telling what the Marshals said not in the presence of any of the parties.

The Court: Well, I'm going to permit the witness to answer the question.

By Mr. Address:

Q. Now tell me—

A. I am not done, sir. Pardon me.

The Court: Will you go ahead and finish.

A. After the Marshal made the remark to me, not a thing was done and I walked between the library and this other building and went home. That was it.

By Mr. Address:

Q. Now you teach physical ed, you say, or work in Physical ed?

A. No, I assist in the Physical Education Department but I am going to be a Guidance Counselor.

Q. Well, you are in pretty good shape, aren't you, pretty good physical shape, now, aren't you?

A. Oh, well, for 29 years old, I think I am. I don't indulge too much in athletics.

Q. How long do you reckon it would take you to run from the monument back around the Fine Arts Building and into LeBuve Hall?

A. How long do I think it would take me to run from [fol. 1663] the monument to the Fine Arts Building?

Q. Around behind the Fine Arts Building, behind—Peabody. Peabody in through there?

A. Peabody and into LeBuve? I wouldn't—it all depended who was after me and why I was running, sir. I really couldn't say.

Q. You reckon you could run that far without stopping for a breath or something?

A. Yeah, I could run a lot further than that if I had to.

Q. Would you be out of breath by the time you made a roundtrip run in there and telephone and run back to the monument?

A. Well, I might have been but—but I might not have been.

Q. Do you think you would be able to do it eight or nine times?

A. I don't see the point—yeah, I probably could do it eight or nine times. I don't see your point in it but I probably could.

Mr. Andress: All right, that's all.

Mr. Gooch: Stand aside.

The Court: I'm going to release this witness, Gentlemen. I will let you go ahead and release you and you can [fol. 1664] go back.

Mr. Gooch: Do you want to start another witness?

The Court: No, it's too close to 12:00.

Ladies and Gentlemen, we will recess until 2:00 o'clock.

(Thereupon, at 11:50, a recess was taken until 2:00 o'clock, p.m., of the same day.)

[fol. 1665]

Afternoon Session.

Doy L. GORTON, called as a witness by the Defendant, having been first duly sworn, testified as follows, to-wit:

Direct examination.

By Mr. Gooch:

Q. Please state your name?

A. Doy L. Gorton.

Q. Where do you live?

A. Greenville, Mississippi.

Q. How old are you, Mr. Gorton?

A. Twenty-two.

Q. Are you now or have you been a student at the University of Mississippi at Oxford?

A. Yes, sir.

Q. Were you on campus at any time during the day of September 30, 1962?

A. Yes, sir.

Q. Do you know about what time you got on campus that day?

A. Well, a little bit after 7:00 o'clock.

Q. Where had you come from that day?

A. From Greenville.

Q. Had you been home for the week-end?

A. No, I was working at Greenville.

[fol. 1666] Q. All right. Now, what attracted your—did anything attract your attention when you got on the campus that evening?

A. Yes, sir, as I got on the campus I drove in past the gym with some friends and I saw tear gas and I saw some police, Highway Patrolmen running away from the vicinity of the Lyceum Building.

Q. All right. At any time during that day, did you—or night—did you see General Edwin A. Walker?

A. Yes, sir.

Q. Where was he when you first saw him?

A. He was right beside the Confederate monument near University Avenue.

Q. Did you go down where he was, or were you in the vicinity?

A. Yes, sir.

Q. Where had you been before, do you remember?

A. The Y Building, the YMCA.

Q. All right. Do you know how long you had been over in the YCMA Building, in that vicinity?

A. Been there about thirty, or maybe forty-five minutes.

Q. Had you been inside the YMCA, or not?

A. Yes, sir, I had.

Q. Do you say you saw him at or near the monument?
[fol. 1667] Did you go in that direction?

A. Yes, sir, I did.

Q. Then what did you see him do, if anything?

A. Well, when I got to the monument, General Walker was standing on the base on one of these ledges of the monument, and there was a crowd all jammed up around him, and I stayed about ten or twenty feet back, and General Walker started speaking.

Q. What did he say that you heard?

A. Well, he told the students that they had a right to protest, that it was their constitutional right to protest like this, and that their constitutional rights were being infringed upon. He spoke for a few minutes about that and then he looked down and to his left and he saw a man standing there. I guess it was a man I recognized as a man named Duncan Gray, and he said, "This is an Episcopalian minister here and that makes me ashamed to be an Episcopalian." And people started yelling and screaming at this man, and they took him away, the minister. And after that he mentioned that we had been sold out. I think his exact words used were, "You have been sold out."

And everybody asked, "Who sold us out, who sold us out?" And he said—well, I don't think he remembered there for a minute, and he said,—asked somebody beside

him, and he came back up and mentioned this Col. T. B. [fol. 1668] Birdsong, of the Mississippi Highway Patrol.

Q. Do you recall anything else he might have said?

A. He talked about Birdsong there for a minute and then seems like he looked straight ahead toward the University Avenue, and then he said a few more things about—most of these things were the kind of things like constitutional infringement and, keep up the protest, and then people started asking if anybody was going to help, if anybody was going to help the students at Ole Miss, and I didn't exactly hear what General Walker said, but I know he made them understand—

Mr. Andress: I object to what he made them understand, Judge.

The Court: You can't give your conclusion. Just tell what he said and what he did.

A. Well, he nodded and said something like this, yes, or at least in the affirmative.

Q. Then what, if anything, did he do, or was that the conclusion of his speech, Mr. Gorton?

A. He said some more things after that, mostly about the Constitution, and mostly about the troops being there, and something about Cuba and the "... troops should be in Cuba and shouldn't be," there at Ole Miss, and told—then he looked straight ahead toward University Avenue [fol. 1669] and started stepping down from the monument.

Q. Then what happened?

A. Then he—it seemed like he had a bunch—the crowd was very, very tight around the monument and they pushed around to the front of the monument, and then to the right of the monument as you look down University Avenue, then came back this way toward the Lyceum Building.

Q. Then what happened?

A. Then when I saw him, he was walking at what you would call sort of a brisk—not a real fast pace, toward the Lyceum Building.

Q. And what did the crowd that was there with him at the monument?

A. Well, when General Walker did this it seemed like he was responding to the crowd.

Mr. Address: Just a minute.

The Witness: Is that a mistake?

Q. Strike that. Tell exactly what you saw.

A. The crowd let up a great big yell, a big whoop, and they started yelling for General Walker, and that attracted the attention of the people over here near the YMCA Building and Hume Hall, the Science Building being put up there, and the people to the left over here and the people to the right. They seemed to know it was General Walker, or at least that is what this crowd was doing. And General [fol. 1670] Walker went straight toward the Lyceum Building, maybe off to the right a little bit on the grass, I guess it was, and the students and everybody around them started moving in behind General Walker, or being drawn to this group here that was making all the noise and yelling rebel yells and cursing and screaming.

And I stood there for a minute and I saw students running from as far away as Hume, and that area, trotting by me and running by me to catch up with the main body, or main crowd gathered around the General.

Q. Where did this crowd go that you said Walker was at the head of?

A. It headed toward the Lyceum Building, and they—when they got to that area, and the last time I saw General Walker was about three-fourths of the way to the flagpole from the statue. However, the Marshals, when they heard this big whoop—

Mr. Address: Now, just a minute, if Your Honor please.

Q. Just tell what happened as they were proceeding toward the flagpole. What did the Marshals do?

A. Well, the Marshals shot off a tremendous volley of tear gas, which partially obscured the crowd, and then the people who were in the crowd, you could see them running

up and throwing rocks and whatever they had in their [fol. 1671] hands, brick and running toward the Lyceum Building.

Q. What did you do?

A. I walked over toward the YMCA. I didn't go with the crowd.

Q. Did you see General Walker any more that night?

A. No, sir, I didn't.

Mr. Gooch: Your witness.

Cross examination.

By Mr. Watts:

Q. Where had you come from, Greenville?

A. Greenville, Mississippi, yes, sir.

Q. How did you come on the campus?

A. I came on in a car with some friends.

Q. Alone or with someone, when you approached the monument? —

A. Oh, in the monument area? I was alone.

Q. Where was you going?

A. I was coming from the YMCA toward the monument.

Q. You were traveling, then, southeastward?

A. I am sorry, I think I am confused. You mean when I first came on the campus?

Q. No, when you saw Walker.

A. When I first saw Walker?

Q. Right.

[fol. 1672] A. Was at the memorial; the monument.

Q. Where were you coming from then?

A. From the YMCA.

Q. Step down to the plat there. That is Exhibit 11. Will you take the pointer.

Mr. Gooch: Right there on the base.

Q. Do you know which way is north?

A. North would be this way (indicating).

Q. Will you put your pointer on the YMCA?

A. Be right here (indicating).

The Court: Have to talk a little bit louder, you are facing away from the Reporter.

A. Yes, sir, the YMCA Building is right here.

Q. And the monument?

A. Right there (indicating).

Q. From which direction did you approach the YMCA?

A. I am sorry, sir, I didn't approach the YMCA. I approached the monument, is what your question was.

Q. When you came on campus, did you go to the YMCA, or not?

A. No, sir, when I first came on campus I was over here at the Union Curve, near the Library, near the Gymnasium, and as the night went on, I came through here and back through here to the Y.

Q. Now, you saw—you say you saw tear gas fired, there [fol. 1673] about 7:00?

A. No, sir, it was after 7:00 o'clock.

Q. Now, then, with respect to when the tear gas was fired, when did you make that trip you pointed out on the map?

A. The trip to the Y or the monument?

Q. No, sir, the trip from around behind the Lyceum.

A. Right through here and all through here?

Q. Right.

A. It took me thirty or forty-five minutes, all through this area, right in through here. Then I gradually wandered over in this part of the Circle here, where I could see the people running around.

Q. And did you go from there to the YMCA?

A. Yes, sir, I went from, I guess that is the northeast section of the Circle there over to the YMCA.

Q. You went from the YMCA directly to the monument where you saw General Walker?

A. Yes, sir, I was beside the Y for a while, and inside, then I heard this noise over there, and then I went over to the monument.

Q. How long were you inside the YMCA?

(A. I was probably in there about twenty minutes or thirty minutes.

[fol. 1674] Q. Did you hear any noise while you were in there?

A. Yes, sir, there was firing going on the whole time I was inside.

Q. And when you came out, you walked from there down to where Walker was?

A. Yes, sir. He was at the monument here (indicating).

[fol. 1675] Q. Did you hear all of his speech on the monument?

A. No, sir, I didn't hear all of the speech.

Q. I believe you said the first you heard—you may take your seat now. Walker told the students they had a right to protest?

A. Yes.

Q. They had a Constitutional right to protest?

A. Yes.

Q. Then the next thing you saw that occurred, Reverend Gray tried to get on the monument?

A. Yes, sir.

Q. And was pulled down?

A. Somebody seemed to knock him down from there, yes, sir.

Q. Oh, he was knocked down?

A. Pulled down or knocked down, yes, sir.

Q. Did you notice a big heavy-set Sheriff there with a badge on?

A. No, sir, I didn't.

Q. You don't know whether he helped him get down or not?

A. No, sir, I don't.

Q. And then Reverend Gray was taken away?

A. I assume so, yes, sir.

Q. So it would have been impossible then for Reverend [fol. 1676] Gray to have heard the things that you have

testified to after these two statements that you have a right to protest under the Constitution—

Mr. Gooch: If the Court please, I object to that as improper cross examination.

Mr. Watts: I will change the terms of that question.

The Court: Don't answer that question.

By Mr. Watts:

Q. Was Reverend Gray in a position to where, with normal human hearing, he could have heard the things and statements you have related which occurred after he was pulled down from the monument?

The Court: Mr. Watts, I won't permit this witness to testify as to whether somebody else could have heard it.

Mr. Watts: I understand.

The Court: The only point, what he heard and saw.

By Mr. Watts:

Q. Going back to the point when Reverend Gray was taken away, all of the things you have testified to that were said except that they had a right to protest and had that right under the Constitution, were said after Reverend Gray was taken away, is that right?

A. I'm sorry, sir, would you repeat that, please, sir.

Mr. Watts: Would you read it?

(Record read.)

[fol. 1677] A. After Reverend Gray was taken away, the things that I remember was the thing about Col. Birdsong and then the thing about Cuba, I believe and the—

Q. Did or did not General Walker say that Governor Barnett had betrayed the people of Mississippi, did you hear that?

A. No, sir, I'm sorry, I didn't.

Q. Did or did not you hear General Walker say, "But don't let up now"?

A. I don't remember hearing that, sir.

Q. "You may lose this battle but you will have been heard," did he say anything like that that you heard?

A. There is some doubt about that, I'd be afraid to answer it. Something about being heard around the world or, keep up the protest because you will be heard around the world."

Q. Well, you have not testified that you heard him say anything about being prepared for possible death, did you?

A. No, sir, I didn't hear anything like that.

Q. Now that, to you, would be a very dramatic statement, wouldn't it?

A. Yes, sir, I think it would be.

Q. And you heard nothing like that at all?

A. I didn't hear it, no, sir.

[fol. 1678] Q. Did you hear then the remainder of this alleged statement, "You must be prepared for possible death. If you are not, go home now?"

A. No, sir, I didn't hear that statement.

Q. Would you say he did or did not say that?

A. I'm sorry. I really couldn't say.

Q. Did you read the Savell report of this that came out on the 3rd of October, 1962?

A. I really couldn't say. I don't know what the Savell report—is that the AP report?

Q. Right.

A. I don't know if it was in the paper or not, which paper I read.

Q. Have you at any time since that and prior to the trial of this lawsuit seen that alleged report?

A. No, sir, I haven't.

Q. Well, anyhow, you didn't hear Savell say anything like that?

A. Savell?

Q. As you were. Walker say anything like that?

A. No, sir, I didn't.

Q. All right. Now when Walker finished his speech, as I understand, he got down from the monument?

A. Yes, sir, he did.

Q. Will you please step back up to the chart, take your [fol. 1679] pointer? Would you point out to the jury please, sir, what direction he went after he got down from the monument?

A. The monument's here and when he got down, he went this direction (indicating).

Q. About how far?

A. About maybe 10 feet.

Q. You are sure?

A. Five to ten feet, in that area.

Q. You are sure of that?

A. Yes, sir.

Q. Positive?

A. Yes, sir.

Q. All right, sir. And what did he do when he got five or ten feet to the southeastward of the monument?

A. Five feet here, and then he would—then he turned back toward the Lyceum.

Q. Did he stop and talk to anyone before he turned toward the Lyceum?

A. The crowd was there so I would say he may have talked to somebody, he may have talked to people to his left and to his right, then he started walking directly toward the Lyceum Building.

Q. How closer to him were you at that time?

A. Within about 10 feet.

Q. Did you follow him to the westward?

[fol. 1680] A. To the what, sir?

Q. To the westward?

A. I followed him—you mean did I follow him this way (indicating)?

Q. What way is that?

A. I guess that's west. Is that what you mean, yes, sir. I followed him about six or eight feet here and then cut over towards the YMCA.

Q. Now from the time he stepped down and went southward until he passed the point you have marked and you left, did you see him stop and talk to anyone?

A. No, sir, I didn't.

Q. He just kept right on moving?

A. It seemed like he was walking with sort of a brisk pace there, kind of a military pace.

Q. Was he, do you know—have you ever had military training?

A. ROTC, yes, sir.

Q. You know what a cadence is, don't you?

A. Yes, sir, I do.

Q. Was he in cadence?

A. It was pretty much, pretty close to that.

Q. So, marching along there in cadence, General Walker would not have had time to stop and talk to anyone from the time he got down from the monument until you last [fol. 1681] saw him, would he?

A. Probably not. I just couldn't say.

Q. All right, sir. Take the stand. Did anyone ask him during that interval between the time he got down and the time you last saw him to, "Lead us in a charge"?

A. Yes, sir, people were screaming all over the place for him to lead them.

Q. Was that the big whoop that you heard?

A. That was one of the whoops that I heard, yes, sir.

Q. Repeat that whoop to us, what kind of noise it was?

A. A Rebel yell.

Q. Was it a Rebel yell?

A. Yes, sir.

Q. Well, you can repeat it in a very low voice?

A. No, sir, I really don't think you can repeat it in a very low voice.

Q. In other words, a Rebel yell is a Rebel yell?

A. I'm afraid so, yes, sir.

Q. And that stuck out heavily in your memory, that there was a regulation Rebel yell after the speech on the monument?

A. On there of the best I ever heard, sir.

Q. And that started off the charge?

A. Yes, sir.

[fol. 1682] Q. And from that time on, nobody was thinking about talking to anybody else, were they?

A. I don't believe so.

Q. Did you hear anyone walk up to General Walker and say, "General, will you lead us in a charge?"

And the General said in a low voice, "Yes, I will"?

A. No, sir.

Q. That didn't happen, did it?

A. I just couldn't say, sir.

Q. Well, you would have heard it, as close as you were?

A. With the Rebel yell, sir?

Q. After the Rebel yell?

A. They were going on all the time.

Q. Oh, a constant Rebel yell?

A. A roar.

Q. Were you yelling any?

A. No, sir.

Q. Had you yelled any at all that night?

A. No, sir.

Q. You hadn't participated in any way?

A. No, sir.

Q. The operation didn't have your sympathy then?

A. No, sir.

Q. What organizations do you belong to, son?

[fol. 1683] A. None, sir.

Q. None at all?

A. No, sir.

Q. Have you ever received any money for activities in connection with your work on the campus?

A. What work, sir?

Q. Any work?

A. No, sir.

Q. You have received no money or no contributions from anyone?

A. No, sir.

Q. On the campus. Do you know one Van H. Savell?

A. No, sir, I don't.

Q. Do you know who he is?

A. You said something about the Savell report. I believe that's the AP newsman, is that correct?

Q. Right. You have never seen him?

A. No, sir, I haven't.

Q. Do you know anyone who purports to know him?

A. Yes, sir.

Q. Who?

A. I believe some of the lawyers that I have spoken to know Van Savell.

Q. Which ones?

A. Mr. Smith, I believe.

[fol. 1684] Q. That is, the lawyers in this case?

A. Yes, sir.

Q. What did they tell you about Van Savell?

A. We never discussed Van Savell.

Q. Did you discuss the fact that Van Savell made a report that General Walker arrived on the campus, met the leaders of the mob, assumed command and led a charge before his speech on the monument?

A. I'm sorry, would you repeat that?

Mr. Watts: Sure. Repeat it to him.

(Record read.)

A. Before his speech?

By Mr. Watts:

Q. Right.

A. No, sir.

Q. If such a charge had been led and had occurred prior to the speech on the monument, from the position you were, you would undoubtedly seen or heard something of it, wouldn't you?

A. No, sir, I was—I don't really know when it happened but I was outside the Lyceum there for quite some time.

Q. How long were you outside?

A. I am sorry, I meant the YMCA. I didn't mean the Lyceum.

Q. How long were you outside the YMCA before you saw [fol. 1685] General Walker on the monument?

A. About 10 minutes, 15 minutes, perhaps.

Q. Tell the jury exactly where you were, what direction you were looking and what you saw during that 15-minute interval before you saw General Walker.

Stand up there at the board with your pointer and brief the jury.

A. Before I saw General Walker, before I saw General Walker, sir?

Q. Right.

A. After I walked out of the YMCA?

Q. Right.

A. Well, I was standing right here in this area right here beside the YMCA and I was looking over mostly in this area through here (indicating).

There seemed to be like there was a lot of people coming on the campus that weren't students at that time and I wanted to know who they were, what they were doing there and then there was a lot of noise over in this area right through here, too, right in through there, there was a constant charge, people running up there and you could see them if you looked through here, you could probably see a few people running up there every once in a while or maybe large groups run up and there was a constant din of a battle going on plus the people over in this area [fol. 1686] right through here, is pretty much what I saw (indicating).

Q. Was Walker standing or moving when you first saw him?

A. When I first saw him, he was just getting up on the monument.

Q. You don't know then where he had come from?

A. No, sir, I don't.

Q. Do you know where LeBuve Hall is?

A. Yes, sir.

Q. Do you know where LeBuve Hall is?

A. LeBuve is a men's dormitory. It's down here, I believe.

Q. Within the period that you were standing at the YMCA, would a man have time to run from LeBuve Dormitory over to the flagpole, if you know?

Mr. Gooch: Just a minute. If the Court please—

Mr. Watts: Well—

The Court: Mr. Watts, I will permit him to give distance and things like that but I won't permit him to testify as to what somebody else might have done.

By Mr. Watts:

Q. All right, sir. Do you know how far it is from the monument to LeBuve Hall, going around behind the YMCA and the Fine Arts Building?

A. Going behind the YMCA through here, sir? I know roughly what the distance is.

[fol. 1687] Q. About 600 yards, isn't it?

A. Probably something like that.

Mr. Watts: That's all.

Mr. Gooch: That's all.

Stand aside. Thank you.

The Court: I will release you, sir.

Mr. Gooch: Call Mr. Travis Buckley.

TRAVIS BUCKLEY, called as a witness by the Defendant, having been first duly sworn, testified as follows, to-wit:

Direct examination.

By Mr. Gooch:

Q. Please state your name.

A. I am Travis Buckley.

Q. Where do you live, Mr. Buckley?

A. I live in Louin, Mississippi, and I practice law down at Bay Springs, just south of Louin.

Q. Spell "Louin".

A. L-o-u-i-n.

Q. And you practice law at Bay Springs?

A. Yes, sir, I practice law. That's in Jasper County.

Q. Do you hold any public office there?

A. Yes, sir, I am County Prosecuting Attorney of Jasper County.

Q. When did you become the County Prosecuting Attorney?

[fol. 1688] A. I was elected in August of last year and took office in January, the 6th, of this year, on January the 6th.

Q. All right. Did you run for office?

A. Yes, sir, it was an elective office.

Q. All right. How old are you, Mr. Buckley?

A. Twenty-nine years of age.

Q. Are you a married man?

A. Yes, sir, I am married and have two children, two girls.

Q. Do you hold any other office or positions in your home town?

A. Yes, sir, in Louin I am General Superintendent of the Sunday School and a Sunday School teacher, also.

Q. In what church?

A. In the Convention Baptist Church.

Q. All right. Were you a student in the University of Mississippi on September the 30th, 1962?

A. Yes, sir, I was at that time.

Q. Was that your last year?

A. Well, yes, sir, that was my last semester. I graduated in the following January.

Q. Yes, sir. Did you happen to be on the campus of Ole Miss on September the 30th, of 1962?

A. Yes, sir, I was on the campus during part of the [fol. 1689] day, part of the night, rather.

Q. Had you been down to Jackson to the football game?

A. No, sir, I had not. I had been to Memphis. A friend's home that day.

Q. Did you live on the campus with your wife?

A. Yes, sir, I lived on the campus with my wife. My wife was not on the campus at the time. We had housing facilities—

Q. Did you have any military training?

A. Yes, sir, I spent two years in the United States Army, 15 months of which were spent in Korea, 1957 and '8.

Q. All right. Now tell me about what time—well, let's shorten this thing up. Were you around the Lyceum Building when the tear gas was fired that evening?

A. Yes, sir, when a great deal of it was fired, I was.

Q. Were you there when the first outburst occurred?

A. No, sir.

Q. Do you know where you were?

A. No, sir. I presume I was on my way home from Memphis but I'm not positive as to where I was.

Q. In other words, tear gas had already been fired when you got back to the campus?

A. Yes, sir, it had, a great deal of it.

[fol. 1690] Q. All right. Now, during the course of that evening, did you see General Edwin A. Walker on that campus?

A. Yes, sir, I did see him.

Q. Where was he when you saw him, Mr. Buckley?

A. When I first saw him, he was in the vicinity of the area which is called the grove, just beyond or, rather, just east of the monument.

Q. All right. Now describe, if you will, please, sir, what action he took and what he said that you heard from the time you first saw him.

A. Well, it first drew my attention by the fact several students commented on the fact that General Walker was in the vicinity.

I asked them where he was and several would say, "Well, he was right there a minute ago," but after a while I did see him and shortly thereafter, the students began to holler or yell, "Speak to us, General Walker."

And after having done that several times, General Walker—the students—or, rather, the students and people around—maybe not all of them were students—said, that he mounted the lower rim of the monument on the—that's the east side of it—and made from there a speech.

Q. Did you hear that speech?

A. Yes, I heard it.

Q. Will you try to recall as best you can the things you [fol. 1691] heard General Walker say in the speech that night.

A. Yes, sir, I will. I don't know that this would be in sequence he said the speech but as—after he mounted the monument, he said, "If there be any bloodshed, let it be on the hands of the Federal Government."

And he said, "This is the long way to Cuba."

Somewhere in around that time, the Reverend Duncan Gray appeared and asked General Walker to stop this; he said, "You can stop this because the boys think you are on their side. Please stop it."

Several of the students—well, General Walker said, "I am ashamed of the fact to admit I am an Episcopalian and belong to the same church that this man does."

He was an Episcopalian minister.

And several students said, "Kill him, get the traitor out of here."

Some of the crowd began to hit, or rather hit at, strike at, and grab Reverend Duncan Gray and when they did,

two or three of the boys stepped in and asked them to stop it and led him away. One of them, I believe, was a very large man and he and another student—or he and another individual—whether he was a student or not—led him away.

There were several students had their hands on him, leading him away to begin with, but as it finally turned [fol. 1692] out, I believe there was only two.

But at any rate, he resumed after that, he said that, I believe, he said this was a long way to Cuba. He said, "You are exercising your Constitutional right to protest by your presence here."

And he said, "You are exercising a Constitutional right by protesting this unconstitutional mandate of the Federal Court in putting Mr. Meredith in."

At that time several students began to holler and jeer in a rather sarcastic manner, "Mr. Meredith, Mr. Meredith."

And of course, during most of the rest of it, the atmosphere seemed to be congenial to General Walker. That was the only jeers I heard then.

Shortly thereafter, a minute or two, lapses, maybe more, General Walker went around one side of the statue or the monument and I walked around the other side. I was standing on the southeastern side of it. He went around—I believe he went around to the northeastern side of the—anyway, the next I saw him, he was on the other side of the monument.

Q. What do you mean "the other side"?

A. The other side would have been the west side.

Q. All right.

A. And several students or a good many of those present [fol. 1693] began to yell, "Lead us on, General Walker. Be our leader," and made that remark several times.

And after a minute, General Walker nodded his head and said, "All right, all right, I will."

And the students gathered around him and he proceeded toward the Lyceum, I believe, or what is the Lyceum

Building, toward the flagpole at any rate. A good many students were around him.

And as it turned out, a lot of them had rocks, were throwing in the general direction of the United States Marshals, and they proceeded on up for, I suppose, at least 250 yards, or more, toward the Lyceum Building, at which time I turned to the left and toward my apartment in Veterans Village. That would be south.

And General Walker veered to the north. How far he went after that, I don't know. I lost sight of him shortly because it was dark and there was also a great concentration of tear gas.

It was not very dark but there was some light but still it was dark enough that I could see—

Q. Did you see General Walker any more?

A. No, sir, I didn't.

Mr. Gooch: Your witness.

Cross examination.

By Mr. Andress:

[fol. 1694] Q. Mr. Buckley, you say the first time you saw General Walker, he was east of the monument?

A. Yes, sir, he was east of the monument.

Q. How long was it before he got up on the monument to make his speech?

A. Well, after I first saw him, it was only a short period of time. Oh, I would say five minutes, maybe a little longer.

Q. And he stayed over there east of the monument for that five minutes?

A. Well, sir, now I don't exactly recall. He was walking around, commenting to several students. There was a bunch of them trying to get to him and talk to him at the time. They were yelling, hollering, "Here is General Walker. Speak to us."

Q. Was he just kind of milling around through the crowd?

A. Well, yes—the crowd was milling around him, you might say more properly, yes, sir.

Q. He was moving around a little, wasn't he?

A. Well, he was moving around a little.

Q. Folks coming up to him and shaking hands and introducing themselves to him?

A. Well, they were shaking hands with him. Whether or not they were introducing themselves to him, I don't know.

[fol. 1695] Q. But from the time you first saw him until the time he got up on the monument, it was about five minutes, you would say, then?

A. Well, I would say approximately. But of course, this has been a long time and I don't remember the exact length of time or anywhere near, but I would say approximately five minutes, yes, sir.

Q. All right. Now before you first saw General Walker where had you been for the preceding, oh, let's say, 30 minutes?

A. I had been—well, I came on the campus off of Highway 6—I believe it is Highway 6. Anyway, through Sorority Row, approximately 45 minutes to maybe as much as an hour and a half before, and I had proceeded slowly in the direction of my apartment in which I was going to—in Veterans Village.

Q. Well, how long had you been, shall we say, in the circle area prior to the time you saw General Walker?

A. I had not been in the circle area prior to that time.

Q. How did you get down to the monument? What was your path?

A. I walked from the Law School down behind the Fine Arts Building, behind the Y, and then across to the Y Building and then across to the area just south—I mean [fol. 1696] just east of the monument.

Q. So you hadn't been on or within sight of the circle up until just before you saw General Walker?

A. Well, within sight of it, yes, I had been, but not in the circle.

Q. Well, how long had you been in sight of the circle, then, let's say that?

A. Well, I would say before I saw General Walker, approximately 15 minutes, not more—

Q. During that 15 minutes, did you—well, of course, you had seen General Walker then until that time, so you didn't see General Walker lead a charge of a thousand people across the circle, did you?

A. At which time are you speaking, sir?

Q. Before he made his speech from the monument?

A. No, sir, I did not.

Q. And you were in such a position that if there had been a charge of a thousand people before he made his speech from the monument across that circle, you would have seen it, wouldn't you?

A. No, sir, I would not have seen it.

Q. You would not have seen it?

A. No, sir, I would not have.

Q. You mean a thousand people could have moved across the circle without it attracting your attention?

[fol. 1697] A. Why, very easily, because of the fact I was behind the Y Building and in the vicinity of the Law School. I could only just vaguely see the circle area, which there was a great concentration of tear gas at the time.

Q. Do you know what time of day it was or what time of night, I should say, when you first saw General Walker?

A. No, sir, I do not. I know that I came on campus somewhere around 8:00 o'clock. It could have been earlier, it could have been later.

Q. Did you hear the President's speech?

A. No, sir.

Q. How long a speech did he make?

A. General Walker's speech, I presume?

Q. Yes.

A. Well, sir, I would say that the speech itself and the things that happened in connection with it, like Duncan Gray, Reverend Duncan Gray coming up, probably took 10 minutes—not much more.

Q. Well, you would call it a short speech, wouldn't you?

A. Yes—I wouldn't hardly consider it a speech, in a sense. It was just a group of comments.

Q. Uh-huh. And that was done in response to demands that he talk to them or say something to the crowd?

A. Well, he did it in response to—when the students [fol. 1698] kept yelling, "Speak to us," yes, sir.

Q. Do you know when that was with reference to the Highway Patrol leaving?

A. It was shortly after.

Q. Did you hear—

A. In fact, I arrived just about the time the Highway Patrol came through, just about that time.

Q. Did you hear a bunch of comments there, cries through the air that, "Ross has sold us out"?

A. I don't remember having heard that. I do remember the General, General Walker, one of the first things, I believe one of the first things he said when he got on the monument was that, "I understand that one of your State leaders sold us out. I just returned from a meeting downtown where I learned that."

And the best I remember, he didn't know who it was at that time and he leaned over to a boy in the crowd—the students and other persons there began asking who. He leaned over to the boy in the crowd and whispered something in his ear, or it appeared it was, and he straightened back up and said, "It's Col. Birdsong."

[fol. 1699] Q. Now, you said something nobody else had mentioned here about "unconstitutional mandate of the Federal Court"?

A. Yes, sir.

Q. Are you definitely sure you heard the General say "Unconstitutional mandate of the Federal Court"?

A. Yes, sir, I am absolutely positive that that was the essence of the words. I don't attempt to recite any of it verbatim.

Q. You don't know whether he used the words "Unconstitutional mandate of the Federal Court"?

A. Well, sir, of course, those are legal words that I would term in my own phraseology, but it was to that effect. I am certain the word unconstitutional—the word “unconstitutional” was used. As to whether he said mandate or order, I wouldn’t—I don’t distinctly remember that.

Q. In other words, when you used the term “unconstitutional mandate of the Federal Court,” that was an impression or conclusion you got from what he said?

A. No, sir, it was not an impression or conclusion that I got from what he said in the sense that I think you are referring to. It was words to that effect. I may have gotten them out of order, but—or I may not have used the exact words, but I haven’t changed them in any material way.

[fol. 1700] Q. How close were you to him?

A. I was within two or three feet of him in distance. Close enough I could have touched him, most of the time.

Q. Now, then, I gather from statements we have heard here that there must have been quite a large number of people within two or three feet of him?

A. Yes, sir, there were. They were just as close around the monument as they could pack.

Q. And if he used the term “unconstitutional mandate of the Federal Court,” it was sufficiently audible that anybody around there could have heard it, couldn’t they?

A. Yes, sir, I think so, very definitely.

Q. Let’s see. He got off the monument, and which side of the monument did he go on to get away?

A. Well, sir, I don’t believe I said. I said I thought he went over to the north side. I don’t know for sure. But I think he did. I know I went on the south side.

Q. You went on the south side?

A. Yes, sir.

Q. And went on the opposite side?

A. I don’t know that he went on the opposite side, but [fol. 1701] I think he did.

Q. Now, after he went around the monument there you say he stopped and talked to some people?

A. No, sir, I don't believe I said that. But the students started talking to him, or rather yelled to him to "lead us, be our leader".

Q. Was there a group that stood there and talked to him briefly?

A. Well, I don't recall any groups standing there talking to him. I don't see how they could have talked under the circumstances. There was too much hollering and yelling going on.

Q. Were there rebel yells going on?

A. Well, I frankly don't know what you mean by "rebel yell".

Q. You don't know what a rebel yell is?

A. No, sir, I really—I really don't.

Q. Where were you born, Mr. Buckley?

A. I was born in Mississippi, south central Mississippi, Jasper County.

Q. And where did you go to school?

A. Ole Miss.

Q. Where did you grow up and go to high school?

A. Stringer, Mississippi.

Q. And how long had you been at Ole Miss?

[fol. 1702] A. Three years almost. Be about two and a half years.

Q. And you don't know what a rebel yell is?

A. Well, I have heard different yells that were supposed to be rebel yells. I don't have any idea what they are referring to.

Q. Well, at any rate, you didn't hear things you would refer to as rebel yells when the General got down from the monument?

A. Well, I heard all manner of yells, noises, cursing, and talking at the Marshals and Federal authorities. Cursing them. And I just heard all kinds of noises. Frankly, I don't see how anyone there under the circumstances could make a sentence out of any of it.

Q. Well, what were these jeers you heard?

A. The only jeers I had heard, I believe I repeated a while ago, was when—rather—other than those directed at the Marshals—

Q. I mean the ones you heard directed at General Walker?

A. The only ones I heard directed at General Walker was when he said, when he referred to James Meredith as "Mr. Meredith".

Q. Oh, he called him Mr. Meredith?

A. Yes, sir.

[fol. 1703] Q. And that got jeers from the crowd?

A. Yes, sir, there were jeers, repeated it several times, "Mr. Meredith, Mr. Meredith".

Q. What kind of jeers were they?

A. They were just bad. "Mr. Meredith, Mr. Meredith," and the kids were hollering, "Oh-h-h-h," like that.

Q. Sort of a boo or something of that sort?

A. Well, I suppose you could call it boos, yes, sir.

Q. Did you hear the General say violence is not the answer?

A. No, sir, I didn't. I believe the statement I made a while ago was what I heard him say, about peace or violence, was that if there was any violence or bloodshed, let it be on the hands of the Federal Government.

Q. And when was that with reference to the time you heard the boos or jeers?

A. I don't remember the sequence of events that distinctly, frankly.

Q. Now, your deposition has been taken in this case on the 5th of February, 1964?

A. Yes, sir.

Q. And at that time didn't you say that General Walker walked off on the opposite side of the statue from where he [fol. 1704] was standing, a few feet from me, and walked around on the opposite side, and I believe he talked to a member of the group briefly?

A. Well, I believe he did. And I also said in my deposition these statements were general and I don't intend to be specific on any of them.

Q. Well, we are asking you to be as specific as you can.

A. Well, I will.

Q. You are a lawyer and you understand what we mean by being specific in a question.

A. I was as specific as I possibly could be.

Q. Also, didn't you say, I believe, he had some students with him around there, and some of them started hollering, "Lead us and be our leader,"?

A. Yes, sir, he said that.

Q. Well, now, how long would you say he talked to some members of that group there?

A. I don't believe I said he talked to any particular member of the group. I said they were around him talking to him.

Q. Did he start to walk off away from the group?

A. Not that I recall, no, sir. He walked away in the group with him as he led the charge up toward the Marshals, I mean up toward the Lyceum.

[fol. 1705] Q. What was his gait?

A. Well, it was rather brisk, I will say.

Q. Did you ever see him run?

A. No, I didn't see him run.

Q. Now, I believe you said that—did he go over there to the, right along the walk, up through the center of the Circle, or did he go off to the north?

A. Well, at what time, now? Eventually he went off to the north, yes, sir.

Q. Where was he when he went off to the north?

A. He was—when I last saw him he was headed north, but was just a piece south of the—well, I would say south and east of the flagpole.

Q. East of the flagpole?

A. Yes, sir.

Q. That is the last time you saw him?

A. Yes, sir.

Q. How far east of the flagpole would you say he was when you last saw him?

A. Well, it would only be a rough estimate. I would say fifty feet.

Q. Fifty feet east of the flagpole?

A. Maybe a little further.

Q. That was the last time you saw him?

A. Yes, sir, he turned—I saw him shortly after that, but [fol. 1706] that was the point he turned. I turned one way and he turned the other.

Q. Which way did he turn?

A. He turned north, slightly north.

Q. Did anybody have ahold of him?

A. Not at that time. Now, there had been before, at the time he left the area of the monument. They had their hands around him or on him.

Q. This, of course, was all after the speech, wasn't it?

A. Yes, sir.

Q. Did I understand you to say he went 250 yards towards the Lyceum?

A. No, sir, I said approximately 250 feet. Or that is what I intended to say.

Q. Then, when he turned off when you were fifty feet east of the flagpole, and he turned off, which direction did he turn?

A. North or northwest.

Q. You turned south?

A. Yes, south or west—southwest.

Q. Is that the last time you saw him?

A. Yes, sir.

Q. Now, where—all the time you saw General Walker there were there a lot of students telling him what had happened, asking him questions, urging him to do things and so on?

A. Sir, I was only close to General Walker at the time he was making the speech and at the time he started toward the Lyceum Building and I don't know of any conversation, personal conversation that was carried on with him. I don't think anyone could have, under the circumstances, as much noise and confusion as there was.

Q. But you did hear him say up there one time when they were yelling at him to lead them, you did hear him say, "Riot, riot," sir?

A. No, I don't remember that. I don't recall it.

Mr. Address: All right. That is all.

Mr. Gooch: That is all.

The Court: I am going to excuse this witness.

KINGSBY KINGSLEY, called as a witness by the Defendant, having been first duly sworn, testified on his oath as follows, to-wit:

Direct examination.

By Mr. Gooch:

Q. Please state your name?

A. Kingsby-Kingsley.

Q. Where do you live, Mr. Kingsley?

A. Memphis, Tennessee.

[fol. 1708] Q. How old are you?

A. Thirty-five.

Q. What do you do for a living?

A. Reporter for The Memphis Commercial Appeal.

Q. Where were you born?

A. Tupelo, Mississippi.

Q. Did you attend any schools in Mississippi?

A. Yes, sir.

Q. Which ones?

A. East Tupelo High School and University of Mississippi.

Q. Did you graduate from the University of Mississippi?

A. Yes, sir.

Q. When?

A. 1953.

Q. All right. Now, were you working—what did you say, the Memphis Appeal?

A. The Memphis Commercial Appeal.

Q. Memphis Commercial Appeal, on September 30, 1962?

A. Yes, sir.

Q. Did you have occasion to be in Oxford, Mississippi on any time on September 30, 1962?

A. Yes, sir.

[fol. 1709] Q. Do you remember when you got there prior to September 30, 1962?

A. You mean that particular day?

Q. Yes, sir.

A. About 2:30 in the morning, between 2:00 and 2:30 in the morning.

Q. That was on Sunday morning, September 30?

A. Yes.

Q. Do you remember where you were staying?

A. At the Henry Hotel.

Q. All right. At any time during that day did you see General Walker?

A. Yes, sir.

Q. Where?

A. At the Mansion, a restaurant uptown, then he had a press conference in this parking lot, or in the middle of the Ole Miss Motel down on Highway 6.

Q. Did you cover that?

A. Yes, sir, I did.

Q. Now, after the news conference did you thereafter see General Walker?

A. Yes, sir.

Q. Give us an account of that, please.

A. It was later this night that I had come back—we had gone in—we had rooms in the hotel, and we had written [fol. 1710] some stories that afternoon and sent them out at Western Union, and then we made arrangements to get back on the campus that night, and then we made arrangements—and I went on about between 6:00 and 6:30, and we had been working all night in different areas of the campus, and it was around 9:00 or sometime there that I saw General

Walker coming on the campus, walking down in front of the Journalism Building.

Q. Where were you at that time?

A. This was on—I was almost in front of the Journalism Building on the sidewalk.

Q. Did you recognize General Walker at that time?

A. Yes, sir.

Q. What was he doing?

A. He was walking down the sidewalk toward the Circle and the Lyceum.

Q. Where did you—did you have any conversation with him?

A. No, sir, I was en route to the telephone that we were trying to use in the building, and I saw the General and some other people walking toward the Lyceum. I saw him wave his arms to some other people. By this time there were a good many students on the side of the street. He waved his arms and he said something to the effect, "Come on ..."—

[fol. 1711] Mr. Andress: Just a minute, we will object to the effect.

The Court: Unless you are using the exact words—

The Witness: He waved his arms and motioned to these people to come on with him.

By Mr. Gooch:

Q. All right, did you stop there at that time, or did you keep going to the Journalism Building?

A. I turned around and watched them as they proceeded on down, then I went in. I was using the 'phone inside the Journalism Building.

Q. How long would you say you were in the Journalism Building, Mr. Kingsley?

A. I would say anywhere from thirty-five to forty-five minutes. I am not sure of the exact number of minutes. Time didn't really mean too much at this particular time.

Q. Did you then come back from the—come back to the campus from the Journalism Building, after you got your 'phone call through?

A. Well, the Journalism Building is on the campus.

Q. I mean, did you come back toward the Circle, is what I am trying to say.

A. Yes, sir.

[fol. 1712] Q. Did you see General Walker when you got back to the Circle?

A. I saw the General in the Circle close to, or—there is a monument right at the edge of it, and I saw him about fifteen or twenty feet toward the Lyceum Building, off to the left at that time, yes, sir.

Q. And what was he doing?

A. He, and there was just a mass of people in this area, and they were proceeding up toward the flagpole and trees, up toward the Lyceum Building at that time.

Q. When they got up a distance there do you know what happened?

A. Well, they got pretty close to the flagpole, and then in the tree area the United States Marshals fired another series or round or rounds of tear gas, and they retreated back.

Q. Did you see General Walker there after that night?

A. At this particular time I was—I saw him behind a—as they retreated, then they got behind the trees and after that I may have seen him somewhere during the night, but General Walker was just one—I was covering other things, and was not really concerned with his activities.

Mr. Gooch: You may have the witness.

[fol. 1713] Cross examination.

By Mr. Watts:

Q. You were coming east along University Avenue when you first saw Walker?

A. East is toward Oxford, yes, sir.

Q. Take the pointer please and step up to the map and

identify the location. First, put your pointer on the statue. Now, locate the journalism building. Keep coming. A little more.

A. Right in here?

Q. No, it is down below that. Can you read the letters on the building there?

A. Journalism Building. Here it is.

Q. All right. Now, at exactly what point were you when you saw Walker?

A. I was on the sidewalk, and I would say I was about fifteen feet—it would be west of the walkway to go up to the Journalism Building.

Q. Were you on the north or south side of the sidewalk?

A. I was on the street—toward the street. I don't know whether that would be north or south.

Q. Which way is the top of the map?

A. I would presume that would be north, and I would be—

[fol. 1714] Q. All right, sir?

A. On this side of the sidewalk (indicating).

Q. You, then, were on the north side of the sidewalk?

A. Yes, sir.

Q. On the left side of the sidewalk going east?

A. Going east it would be the left, yes, sir.

Q. And General Walker was walking on his left side of the sidewalk going west?

A. He was walking on the side of the sidewalk going toward—well, he would be on this side here (indicating), and I was coming back up on this side. He would be down on this side, or maybe in the middle of the sidewalk. He wasn't—it wasn't all that large.

Q. Just a regular GI sidewalk?

A. Yes, sir, just a regular street sidewalk.

Q. And you were walking east on the north side of the sidewalk?

A. Yes, sir, back toward the Oxford area, yes.

Q. And Walker was walking westward on the left side of the sidewalk?

A. Yes, sir.

Q. So, you were both meeting each other on the left side of the sidewalk, rather than on the right side?

A. We were both meeting, I mean, on the walk, the [fol. 1715] sidewalk. You just automatically meet. I mean he would be—I would be on the street side and he was on the Journalism, or grass side, this side of the sidewalk (indicating).

Q. Do you ordinarily walk on the left side of a sidewalk when you go anywhere?

A. I don't even remember how I walked on the sidewalk.

Q. The question, sir, do you ordinarily walk on the left side of the sidewalk, or the right?

A. I think I walk on the left.

Q. How do you drive your automobile?

A. I—

Q. Do you drive on the right side of the road, or the left?

A. The left.

Q. Left. Were you raised in England?

A. No, sir. You drive on the right side, in an automobile.

Q. All right. And did you walk on the left side of the sidewalk?

A. I think I did.

Q. And you think General Walker, being a soldier, normally would occupy the left side of a sidewalk?

A. I think General Walker, at this particular time, was [fol. 1716] going down the sidewalk and I wouldn't say, just two or three feet this way or two or three feet the other way, no, sir.

Q. Okay, take your seat. Walker waved to them to come on, you say?

A. Yes, sir.

Q. Who is "them"?

A. People on—he was walking down the sidewalk and there were people up on automobiles, sitting on the sides of cars, and that kind of stuff, yes.

Q. Now, would they be on the left or right side of the sidewalk?

A. Sir?

Q. The ones he waved to?

A. They were people sitting on cars, they were out in the grass. I mean, they would be on both sides. The cars were on the street side.

Q. Well, how do you know, then, whether he waved to them or to one individual to come on the campus with him?

A. Well, I wouldn't say that he waved to anyone or one hundred, but he waved, and then I saw these people that had—some of them getting off cars and off the grass, and they just followed him on down.

Q. As I read your testimony you say, "I saw Walker [fol. 1717] wave his arms at these people."

A. Yes, sir.

Q. That was the testimony?

A. Yes, sir.

Q. Do you know whether he had a single friend behind him?

A. I wouldn't know if he had one single friend, or who his friends were.

Q. Well, how do you know, from your observation, that he didn't wave his hand at a man in the place of "these people"?

A. He could have waved it at one particular individual, if he knew them, yes, sir.

Q. So, all you can say, you were walking on the left side of the sidewalk, Walker was approaching you on his left, his left side of the sidewalk, and you saw him wave his arm?

A. Yes, sir.

Q. And you don't know whether he waved at one man or one hundred, do you?

A. No, sir, I wouldn't say if he waved his arm at one or a hundred.

Q. Was he alone, or was someone with him?

A. No, sir, there were two or three other people. The General was in the center, and there was a man or two on [fol. 1718] each side of him, or right behind him, or there was about four or five men in one little group, yes, sir.

Q. Somewhere around him?

A. Yes, sir.

Q. You didn't have to get off the sidewalk as you met that group?

A. No, sir.

Q. Did they all pass you on your right, then, as you went eastward?

A. Well, I was coming—I was coming back, and they passed me. We didn't have to run into each other, no, sir.

Q. Did any of them have ahold of him by the arms, like this (demonstrating)?

A. I don't believe—I don't remember whether they did or not.

Q. That would have been rather singularly positioned for a man to be walking in, wouldn't it?

A. I don't think that the General would walk down with anybody holding his arms when he was waving, no, sir.

Q. You would have certainly noticed it if he had been waving at somebody with one arm and somebody else had ahold of his other, wouldn't you?

A. I am not sure whether I would have noticed whether [fol. 1719] anyone was holding his arm. It is possible.

Q. You didn't see anybody holding his arms, though, did you?

A. No, sir.

Q. I wish you would walk back up to the monument there. After you came out of this Journalism Building did you go back toward the monument?

A. Yes, sir.

Q. And you saw a group of people around the monument?

A. Yes, sir, up in the area, right in here (indicating). [fol. 1720]

Q. And where was General Walker?

A. He was about the monument—he would be about 15,

20 feet probably, or an estimate anyway, I wouldn't say, right in this area of the site of this walkway up through in there, yes, sir.

Q. Was he conferring with anyone at that time?

A. No, sir.

Q. Was he north or south of the sidewalk?

A. He would be on the south side, yes, sir.

Q. Where were you?

A. I was cutting across right through here and I was going over to the Y.

Q. How far from him?

A. Oh, maybe 20 feet or something like that.

Q. Did anyone have ahold of his arms at that time?

A. I don't know, sir. He was in the front, up in the front and I was cutting around behind.

Q. You didn't see anybody holding on to his arms, did you?

A. No, sir.

Q. Did he cut off to the north and follow you or to the south, the opposite direction, or go straight?

A. He went up in this area up in here, up into this area, and I cut across and went over to the Y because there was a telephone in there that I had to call into the office on [fol. 1721] something.

Q. In other words, then, he was just walking straight alongside that sidewalk?

A. He was over in here and they were walking up through this way, yes, sir.

Mr. Watts: All right, that's all.

The Court: Do you have any further questions from this witness?

Mr. Gooch: No further questions.

The Court: All right. I will release you then, sir.

Mr. Gooch: Let me see if I have got a witness. Would you give me just a minute?

The Court: Yes.

Mr. Gooch: Mr. Sheriff, call Mr. Gregory.

TOM GREGORY, called as a witness by the Defendant, having been first duly sworn, testified as follows, to-wit:

Direct examination.

By Mr. Gooch:

Q. Will you state your name?

A. Tom Gregory.

Q. Where do you live, Mr. Gregory?

A. Meridian, Mississippi.

Q. How old are you?

[fol. 1722] A. Twenty-nine years old.

Q. What do you do for a living?

A. I am a reporter for the Meridian Star.

Q. Is the Meridian Star located in Meridian, Mississippi?

A. It's a daily newspaper of Meridian, Mississippi.

Q. How long have you been in the employ of the paper there in Meridian?

A. A little more than three years. Three years and three months, about.

Q. Prior to that time, did you have any educational background?

A. Yes, sir, I am a graduate of the University of Mississippi in Journalism and English.

Q. All right. Did you keep up with the, shall we call it, the Meredith incident that came to a climax along in September of 1962?

A. Yes, sir, I covered much of it.

Q. Were you at Oxford frequently or infrequently during the month of September, 1962?

A. Three times, as I recollect.

Q. Well, we will not go into all those others because we have had so much background.

Were you on the campus of Ole Miss on September 30th, 1962?

[fol. 1723] A. I was.

Q. Did you know about what time you got there on that date?

A. I went on campus about 6:45.

Q. That's P.M.?

A. That's P.M. 6:45 or 7:00 o'clock, I'm not exactly certain of the time.

Q. Prior to the time you went on the campus that day, had you seen General Edwin A. Walker?

A. No, sir, I had not.

Q. Did you know who he was?

A. From pictures only.

Q. All right. Did you observe the Lyceum Building and the Marshals, and so forth, up there at the time you got to the campus?

A. Yes, sir, the Marshals were already lined around the Lyceum Building at the time I got on campus.

Q. Did you observe any brick throwing or rioting or anything of that sort?

A. After about 8:00 o'clock, I did.

Q. All right. Were you there when tear gas was fired?

A. Yes, sir, I was. I was in front of the Lyceum.

Q. Could you describe what happened before the tear gas was fired relative to any contacts between the crowd [fol. 1724] and the Marshals?

A. Prior to the time the tear gas was fired, I did circulate in the crowd and I saw some cigarette—lighted cigarettes thrown in the direction of the Marshals. I saw some Coca-Cola bottles or drink bottles of some sort thrown—these I saw were thrown over the heads of the Marshals in the direction of the Lyceum Building.

I also saw Marshals and students talking during that time.

And other than that, two different kinds of contact.

Q. Well, eliminating—after the tear gas was thrown, describe generally what was going on there in the circle around the Lyceum Building?

A. After the tear gas was fired, it became almost a proc-

ess of the students gathering in groups, in the lower part of the circle, and they would rush up in the direction of the Marshals, some of them would throw bottles or bricks in the direction of the Marshals and the Marshals would fire tear gas at the students and the students would retreat, regroup and then go forward again.

Q. Was that more or less continuous? After the tear gas was fired?

A. More or less a continuous process. There would be lapses of time between the charges.

[fol. 1725] Q. All right. Now did you see General Edwin A. Walker in the circle there that night?

A. Yes, sir, it must have been about 9:00 o'clock, about an hour after the thing had started, I was standing almost in front of the YMCA Building, inside the circle but in front of the, the area in front of the YMCA Building, when Van Savell came up to me and said, "General Walker is on the campus," and I turned around and I recognized him and walked in his direction.

That was the first time I had seen Walker.

Q. Had you known Van Savell before?

A. Yes, sir, I met Van Savell previously in Meridian during the trial of Chancellor Williams.

Q. All right. Have you seen him since that time?

A. We both covered a football game at Starkville and other than that, I don't recall having seen him.

Q. All right. When you saw General Walker, what did you do?

A. I went in his direction. Walker—a group was forming around Walker and I joined the group that was forming around Walker.

Q. Did you hear anything that General Walker might have said at the time you joined that group?

A. Well, yes, sir, I heard some things that were said to Walker.

[fol. 1726] When I arrived at the group shortly after, I remember some students had ganged around and there was

a commotion as other students called out that General Walker was on the campus.

And there begin to be a crowd around him and one of the students asked General Walker when he would bring his men that he had promised onto the campus and he said, "They will be available when they are needed," and he also asked, says, "Well, where are they now?"

He says, "Oh, they are around town. We can bring them in if we need them."

Q. All right, anything else?

A. There was also some discussion at that time about weapons that went on around General Walker.

Q. Well, now unless General Walker said it, let's don't go into that.

A. Well, General Walker, as I recall, did not participate directly in this conversation. He was listening.

Q. Well, never mind what he was listening to. Just keep it to what General Walker said.

A. Now shortly after this conversation with the students took place, Reverend Duncan Gray came up to the group and Reverend Gray asked Walker if he wouldn't leave the campus, if he wouldn't help to calm the mob and specifically I recall he asked him, "If you will go off the campus, the [fol. 1727] students will follow you."

And going—and General Walker told him that he wouldn't leave, that he intended to stay.

And Reverend Gray made other entreaties to Walker and Walker always refused him, declined to leave.

And at one point Walker asked him if he were not the Reverend Duncan Gray?

And he said that he was and Walker said, "You make me ashamed to be an Episcopalian," and after that Gray left the scene, this crowd around General Walker, and about that time I moved away from it, too.

Q. Did you thereafter see General Walker?

A. It was very shortly thereafter. I was standing in the same general area when I began to hear cries of, "Follow General Walker," and I turned around and I saw a very, a

much larger group forming around the General and there were other cries of, "He's going up to the monument— He's going up to the Marshals," and "he won't let"—"General Walker won't let the Marshals stop him," cries like, "Gas won't stop General Walker."

And at that point the General, in the front row of a group, began striding at a rather fast clip in the direction of the Lyceum Building with the crowd, which I estimate at the time to be about 200 behind him and following him. [fol. 1728] Q. And how far did they go westward?

A. Well, I was off to the side, not directly in the crowd, and I walked past the sidewalk that crosses the circle I believe in a north-south direction.

I walked past it about 15 yards, I would imagine, and they went well ahead of me to what I would estimate to be maybe 15 or 20 yards, within 20 yards of the driveway that circles the Lyceum Building.

Q. What happened then?

A. At that time there were—there was a burst of tear gas from the Marshals that obscured the crowd from our vision and they began to disperse.

I saw them running out of the crowds and retreating and I did, too.

Q. All right. Now did you thereafter see General Walker that night?

A. Yes, sir, I saw him somewhat later when I had gone to the foot of the circle where the Confederate monument is and just as I arrived there, I heard someone say, "General Walker is going to speak to us."

And about that time Walker stepped up to the foot of the monument and began speaking.

Q. Did you hear any of the speech that General Walker made?

A. Yes, sir, I was within several feet of the General and [fol. 1729] I heard parts of it. There was quite a commotion in my area of rather loud-mouth people who would clap and cheer and for that reason I could not hear all of

the speech and my memory of it is, therefore, in disconnected phrases and sentences.

Q. All right.

A. I heard him, I can recall him saying, "This is a long road to Cuba," and something about, "A splendid protest," quote, "splendid protest, quote.

I also recall him saying, "Give them protest, give them casualties."

And later on he said, "told the students that he had just come from a conference with the representative of Governor Barnett and he said that Governor Barnett did not want the Marshals on the campus and that there had been a sell-out and the students asked, "Who, who," were crying out, they wanted to know who sold them out."

He conferred with some man at the foot of the monument there and then he said, "Col. Birdsong," and there was a great deal of booing at that time.

It was shortly thereafter that Duncan Gray again appeared on the scene on my and as I recall, it was saying, asking the General to stop his speech and someone pulled him away from the foot of the monument, pulled Gray away from the foot of the monument, and began to pull [fol. 1730] him out of the crowd and again I heard General Walker say, "There is a man who makes me ashamed to be an Episcopalian."

At that point there were a number of the people in the crowd directly around me who began to follow Duncan Gray away from the monument and so I went with them. But two men took charge of Gray and I don't recall who they were, outside of the crowd, maybe 30 yards away from the monument, and convinced him that he should leave the campus or told him he should and he began to leave the area.

At this point I, too, left the area of the circle and went to the YMCA Building.

Q. Did you see Walker after that?

A. Later on during the night, I would see him at various

places in the circle as various other assaults were launched at the Federal line.

He would be watching and perhaps occasionally speaking to somebody in the area but I did not hear him say anything after that time.

Q. Did you write a story for the Meridian Star on what you saw on the campus that night?

A. Yes, sir, I wrote one the next morning, which was probably showed the next day.

Q. Did you write it from what you saw or from any news service?

A. I did not—at the time I wrote my story, I had seen [fol. 1731] no other reports of what had occurred. I wrote it strictly from what I saw and heard.

Mr. Gooch: What's the next exhibit number, do you know?

(Thereupon, Defendant's Exhibit No. 29, was marked for identification.)

By Mr. Gooch:

Q. I hand you what's been marked as Defendant's Exhibit 29, and ask you if this is a photocopy of the story that you wrote in the Meridian Star?

A. Yes, sir, this is my story.

Q. Is that based on the things that you saw and heard there on the campus that night?

A. It is.

Mr. Watts: We have no objection.

Mr. Gooch: I won't take the time to read this at this time.

By Mr. Gooch:

Q. Did you call the march by Walker a charge, as he went towards the Lyceum Building?

A. Yes, sir, I did.

The Court: Are you offering 29?

Mr. Gooch: Yes, sir, we offer 29.

The Court: Defendant's 29 is admitted.

Mr. Gooch: We pass the witness.

Mr. Address: Your Honor, we would like to have a conference before we start, since it is 3:15, could we have a [fol. 1732] recess right now.

The Court: All right. Ladies and Gentlemen, we will recess until 25 minutes until 4:00.

. . . .

[fol. 1733] Q. Mr. Gregory?

A. Yes, sir.

Q. Just before the recess did I hear Mr. Gooch stand there and caution you not to talk to anyone during the recess?

A. Yes, sir.

Q. And after you got out in the hall didn't you talk to Mr. Fred Smith, the gentleman sitting here, and Mr. Travis Buckley, another witness who has been in here testifying?

A. I talked to Mr. Smith. Mr. Buckley is to carry some stuff back to the hotel room for me.

Q. So, you did talk to Buckley?

A. Yes, sir.

Q. Where and when did you first know Van H. Savell?

A. The contempt trial of three Ole Miss officials, Chancellor Williams, Dean Lewis and Registrar Ellis, was held in Graham, Mississippi, in the Federal Court, and I covered that, that trial for my newspaper. Van was covering it for the Associated Press, and we met during the process of that trial.

Q. Now, about when was this?

A. As I remember it, well, it was on the Friday preceding the Sunday of this riot. I may be a day or two off. [fol. 1734] I don't recollect.

Q. Did you get pretty well acquainted with Savell?

A. No, sir, we—as I remember, we sat at the press table side by side and I met him. I know or knew his name, it

was just an acquaintanceship through the reporting side by side at the trial.

Q. You knew him as you were both newsmen?

A. Yes, sir.

Q. Both were in the same general fraternity?

A. Yes, sir.

Q. Were you friendly there with him?

A. Like I say, I never—during the process of the trial was the only time I knew him. We didn't have any opportunity to converse at that time. I—we introduced ourselves as we sat down, as I remember it, and had very little other opportunity to converse.

Q. As I remember your testimony, you saw Savell one time that night?

A. Yes, sir.

Q. Near the YMCA?

A. Yes, sir.

Q. Would you step to the chart, please, and take the pointer? Would you point to us exactly where it was?

A. Exactly, sir, it would be difficult. It was just about [fol. 1735] in this area.

Q. Somewhere in the northeast quadrant of the Circle?

A. In this area I am pointing to (indicating).

Q. About how long before Walker's speech was that?

A. That would be difficult to say in point of time.

Q. Well, let's see, do you remember when the Highway Patrol left?

A. As I remember it, it was sometime between the time of Walker's speech at the monument and the time that the tear gas was fired.

Q. It was just almost coincident with Walker's speech, wasn't it, just before he made his speech?

A. Not as I remember it.

Q. Where were you when the Highway Patrol left?

A. I was standing at—it would have been right here when they drove by (indicating).

Q. Now, then, put your pointer up there where you met Savell?

A. (Witness complies.)

Q. Where had you been just before that?

A. I had been over this general area. I had been following the wave of students as they went forward toward the Lyceum Building.

[fol. 1736] Q. In other words, you, yourself, had been in that northeast quadrant for some few minutes before you met Savell?

A. Now, exactly, whether I was in this northeast quadrant a few minutes, or how long I had been there, I don't know. I had been over this entire general area just moving around.

Q. You have a distinct recollection of meeting Savell and he told you Walker was on the campus?

A. Yes, sir.

Q. You can mentally close your eyes and relive the point and the incident, can't you?

A. Yes, sir.

Q. All right. Now, then, you have put the pointer right where you were when you met Savell?

A. Yes, sir.

Q. Could you tell us where you were for the previous, or preceding fifteen minutes?

A. As I say, sir, I was over this general area. It is—during that preceding time, between the time I met Savell and the time that the tear gas was first fired, I moved around generally. I was, oh, down in here, I was up in here, and I was over the general area, and where I was at any other point of time I could not say.

Q. What attracted your attention to Savell?

[fol. 1737] A. Savell walked up to me, and as I say, I remembered him, and he spoke to me first and he says, "General Walker is on the campus."

Q. Now, this occurred, as I remember, and as I noted in your testimony, this contact with Savell occurred after you had seen General Walker in contact with Rev. Gray?

A. No, sir, it—it occurred prior to that time.

Q. Oh, before. I see. In other words, then,—

A. I had not seen General Walker before Savell came up to me and told me that General Walker was on the campus.

Q. I see. After you saw Savell in the northeast quadrant, you walked down in the southeast quadrant and saw General Walker talking to Rev. Gray?

A. No, sir, in point of chronology, I remember incidents that occurred during the night. Now, this has been better than a year and a half ago.

Q. But, now, young man, you have talked to people connected with this lawsuit almost immediately after this thing happened?

A. No, sir.

Q. Mr. Smith?

A. No, sir, no.

[fol. 1738] Q. When did you first talk to Mr. Smith?

A. Oh, I first talked to Mr. Smith perhaps a month or two ago.

Q. Is that the first time you talked to anyone connected with the lawsuit?

A. No, sir, I had talked prior to that then with an attorney out of Jackson, and that had been last fall, as I remember it.

Q. Was that someone out of Mr. Thomas' office?

A. Yes, sir.

Q. In the fall of 1963?

A. Yes, sir, about that time.

Q. Did he take a tape recorded statement from you?

A. No, sir, he did not.

Q. Was that the first man you talked to?

A. I talked to an FBI agent within a matter of a few weeks after the riot.

Q. Did you testify at the Grand Jury?

A. Yes, sir, I did.

Q. So, these incidents since the occurrence have remained fairly clear in your mind, haven't they?

A. Well, as I say, the incidents that I have been asked about, the incidents I have talked about, I had reason to remember those incidents.

[fol. 1739] Q. Now, you do distinctly remember seeing Savell?

A. Yes, sir, I distinctly remember seeing Savell.

Q. And you do distinctly remember his telling you General Walker was on the campus?

A. Yes, sir.

Q. You distinctly remember that after learning that General Walker was on the campus, a short time thereafter, you saw General Walker talking to Rev. Gray?

A. It was sometime after that. Like I say, my chronology is a matter of incidence that occurred during the night, and chronologically I am not exactly certain how these incidents did take place.

Q. Now, when you—when you saw Savell and he told you that Walker was on the campus you didn't say, "Well, yes, I know it, I just saw him talking to Rev. Gray?"

A. No, sir, I did not. I turned around, as I remember it, and saw Walker at that point.

Q. So, undoubtedly, then, when you saw Savell and he told you Walker was on the campus, it was before you had seen Rev. Gray talking to Walker, that is a fair conclusion, isn't it?

A. Oh, yes.

Q. Now, then, after you saw him in the northeast quadrant, you went down and saw him talking to Rev. Gray [fol. 1740] in the south—southwest quadrant.

A. Now, as I recall it, sir, when I saw Gray talking to General Walker, it was in an area still in this same quadrant.

Q. In the northeast quadrant?

A. Yes, sir, as I recall.

Q. All right. Anyhow, you saw him talking to General Walker, and you distinctly remember Rev. Gray telling General Walker that he ought to leave the campus?

A. Yes, sir.

Q. And Walker distinctly refused to leave?

A. Now, I don't recollect any words that Walker said at this point. I do remember that Walker declined to go. I do remember that Walker did say something to Rev. Gray.

Q. At that point, and at that incident, did you see Gray before you saw Walker, or did you see Walker before you saw Gray?

A. I saw Walker before I saw Gray.

Q. So, you then saw Gray coming up to Walker?

A. Yes, sir.

Q. The Rev. Gray, being a minister, did he stick out his hand and shake hands with General Walker?

A. I don't recall that he did.

[fol. 1741] Q. You don't know one way or another?

A. I just don't recall. I don't really believe that he did.

Q. Then, about how long did they talk?

A. Oh, it was just a matter of a couple of minutes, as I recollect it.

Q. And did Rev. Gray leave?

A. Yes, sir.

Q. And your next testimony was that later you saw Walker in the same general area, and you saw a large crowd standing around him?

A. Well, now, whether, at this point, that occurred prior to the time he talked to Gray, or after the time he talked to Gray, I am a little bit hazy on that.

Q. Since your first testimony, or since you left the witness stand, you went out and talked to Mr. Smith?

A. Mr. Smith talked to me.

Q. Yes, sir, he talked to you, and he told you that you got your time fouled up, didn't he?

A. Well, now, as I told Mr. Smith, and—and the attorneys I have talked to throughout this trial, or prior to this trial, sir, my chronology on many instances is not good.

Q. Young man, that was not my question. My question to you, please, was did Mr. Smith tell you—

[fol. 1742] A. —Mr. Smith came up to me and said that my story pointed it out a different way, and I wrote the story the next day, and I am testifying sometime later.

Q. And he pointed out to you out in the hall, between the time you testified a while ago and right now, that you were getting your timing fouled up, on this charge.

A. He said my timing did not coincide with my story?

Q. And your testimony was before you went out and talked to Mr. Smith that later, and you testified immediately after you saw the Rev. Duncan Gray, and Walker talking, that General Walker, a large crowd formed around General Walker, and then you saw General Walker walking fast with a crowd of 200, about 200 around him as they went on west fifteen or twenty yards from the curb around the Circle.

A. That was an estimate as to distance, sir.

Q. Sir?

A. That was an estimate as to distance.

Q. As to what?

A. Estimate as to distance.

Q. I understand, but this was after you had seen Gray talking to Walker.

A. Now, like I say, sir, my chronology is not good on [fol. 1743] some of these points.

Q. Well, when you testified before it was good.

A. Well, when I testified before there was no specific reference to chronology.

Q. Well, didn't you testify when you were in here fifteen or thirty minutes ago that after General Walker talked to Rev. Gray, you then saw the crowd gather around General Walker, you then saw a crowd of about 200 people move toward the Lyceum and get within fifteen or twenty yards of the curb, the tear gas was fired, and they went back; and then you testified, if I am mis-quoting your testimony, stop me, you testified, "And then at the foot of the monument you heard Walker speak."

Now, wasn't that your testimony a while ago?

A. As nearly as I can recall the testimony.

Q. And since then you have talked to Mr. Smith?

A. Since then I have talked to Mr. Smith, yes, sir, but—

Q. What is your testimony now?

A. Well, my testimony now is that I am trying, as I am trying to get it.

Q. Sit down over there and give it to us.

A. I tried to tell you—

Q. I don't want to know what you are trying to tell me. I say now what did happen, in the proper sequence starting [fol. 1744] with talking to Van Savell.

A. Well, Van Savell—

Q. Just a minute, please, let me finish the question. You started with meeting Van Savell southwest of the YMCA in the northeast quarter of the intersection, and take it from there in the absolute chronology, because this is critical and important. You relive it and testify for us as you remember, who said what to who and who did what.

A. I met Savell, rather Van Savell came up to me, and he spoke to me and he said, "General Walker is on the campus." I don't recall that I said anything to Van, but I turned around and at that point I remember seeing General Walker, as I testified before. I believe that there was a period of time when a crowd was gathered around Walker, and in that same period of time Duncan Gray came up to General Walker.

I have tried to tell you as truthful as I know how that my chronology is not good.

Q. Well, now, I am not talking about that. Tell us what you saw?

A. Well, I can only restate what I said before. As to when these things happened, I can't be that exact.

Q. But you were exact a while ago.

A. I was not pressed on points of chronology. [fol. 1745] Q. Go ahead and tell us what you told us before you talked to Mr. Smith.

A. I can only re-tell what I told you a while ago.

Q. All right. Will you tell it, then?

A. At the time I moved into the crowd.

Q. Where was Duncan Gray when you moved into the crowd?

A. Duncan Gray was not present at that time.

Q. How long had he been gone?

A. He was not there.

Q. You said he had talked to Walker and you had seen him?

A. But you are asking me to tell it as I told it before, which I am trying to do.

Q. Go ahead.

A. All right.

Q. All right.

A. All right, at that time there were students gathering around, and there was a great deal of hullabaloo, and a student, I remember asked him, said, "General Walker, where are all these men you promised us?"

And General Walker said, "They will be here when the time comes."

And the student asked him, "Where are they?" And [fol. 1746] General Walker said, "They are around town. They will be here when we need them."

Then there was some conversation around about weapons, and which I don't recall General Walker joining. At some point shortly thereafter Duncan Gray—Rev. Duncan Gray came to the scene, and Duncan Gray began to ask General Walker if he would leave the campus, and he asked General Walker specifically, "If you will go off the campus, the students will follow you."

And I can't recall General Walker's words, but he did decline to go, and it was—

[fol. 1747] Q. Just stop right there, or excuse me, let me stop you. Did you hear Reverend Gray say, "You could stop this if you could, if you would"?

A. I don't recall that specifically, no, sir.

Q. All right, go ahead.

A. It's possible he said some things that I did not recall specifically.

Q. Go ahead.

A. General Walker then asked him if he were not Reverend Gray and he said he is, an Episcopal minister, and he said he is, and General Walker said, "You make me ashamed of being an Episcopalian."

Whatever conversation may have taken place between them; I don't recollect now.

But Gray did leave, and I left the group shortly thereafter.

At a period of time around that time, I saw General Walker at a time when I was not immediately close to him, and a group of men gathered around him and I estimated at the time the total to be about 200, it's purely an estimation again, and then Walker began to move in the direction of the Lyceum Building at the head of this group of people.

And he was not in front but he was in the front row of the group and they began to walk in the direction of [fol. 1748] the Marshals with people crying out, "The Marshals won't stop General Walker," and, "Gas won't stop General Walker," and that sort of thing, a great deal of activity and I did not follow them all the way up to the front.

I went to a point across in the Lyceum Building side of this north-south crosswalk that crosses the circle and stopped there.

Q. Would you go over and put your pointer on it, please?

A. As nearly as I can recollect, I must have stopped right about here (indicating).

Q. Now where was Walker then?

A. Walker at the time was moving in this direction, past me and I was slightly ahead of this crowd that was coming until I stopped and then—

Q. Excuse me right there. Where had this movement formed up? You said this group—

A. To the best of my recollection, down in this area (indicating).

Q. I see. Go ahead.

A. And I stopped about here. The group did not move

in a straight line but, rather, in a very tight arc in this direction but always toward the Lyceum Building.

Q. They were—

A. They passed me and with me remaining there (indicated [fol. 1749] cating) and when they got up in this area, the tear gas began to fall.

And then they—

Q. Did they throw anything, anyone?

A. Now I did not see anyone throw anything. There was a great deal of movement. There might have been something thrown, I personally did not see it.

Q. Now the nearest you can tell, how long after you first saw Savell by the YMCA did this incident happen?

A. Chronologically, sir, I don't know.

Q. Well, could you estimate? Ten, fifteen, thirty minutes?

A. It could have—it could have been five minutes. It could have been ten minutes. It could have been a shorter time. I am just not exactly certain on the chronological order of some of these events.

Q. You know it wasn't as long as 30 minutes, don't you?

A. Oh, no, it wasn't that long.

Q. Now, as you saw Walker going by there, you say he was in the front rank of this group?

A. Yes, sir.

Q. Did anybody have him by each arm?

A. From where I was standing, sir, I could not tell that anybody did.

[fol. 1750] Q. At least, if they did, you couldn't see?

A. If they did, I couldn't see it, no, sir.

Q. Did you see a young man waving a big Confederate flag out in front?

A. Not at this time, no, sir. That had occurred somewhat earlier than what I saw.

Q. What did you do after Walker passed you with this group going west?

A. I stayed where I was.

Q. What did Walker do?

A. They continued going this way until the tear gas came and I lost sight of General Walker (indicating).

Q. What happened then?

A. Well, the crowd around him began to disperse. I saw those from the crowd moving back in my direction away from the clouds of tear gas and I moved backward, too.

Q. When did you next see Savell—strike that. When did you next see Walker?

A. Oh, well, as far as I can recall, it was at the monument.

Q. Now then prior to the time you saw Savell, you were in the general area of the circle. Stand there for just a minute. Put your pointer on the monument.

A. Here is the monument, I believe.

Q. Move it out about 10, about a hundred feet down [fol. 1751] eastward on University Avenue.

Assuming that General Walker had approached the campus, striding westward toward the monument, had been met by a group of leaders of the mob a little to the west of where you are—now move slightly to the west—more yet—back, no, back to the east a little—had been met there by leaders of the mob and had encountered a large portly, well-dressed man, had been welcomed by the crowd, had been requested to lead the crowd to the steps, had then and there loosened his tie, nodded yes without speaking, conferred with a group of about 15 persons who appeared to be riot leaders, assumed command of the crowd estimated at 1,000 people, was taken by each arm, by two leaders of the mob, marched westward—first northwestward and then southwestward across the northeast quadrant and then into the northwest quadrant from where you were, you could not have missed any movement that dramatic, could you?

A. If they moved in my direction, I would have seen it, yes, sir.

Q. Well, you know, do you not, that all during that period of time, before you saw Savell and after you saw

Savell and before Walker's speech on the monument, had an incident that dramatic occurred, you couldn't have kept from seeing it, could you?

A. That's correct, sir.

[fol. 1752] Q. Wouldn't you say, in fairness, from what you saw and where you were, that such an incident did not occur? Yes or no.

A. That Walker went toward the Marshals?

Q. At that time, with a man on each arm and a thousand people behind him?

A. I didn't see any thousand people behind him. I saw General Walker from a point of about here (indicating).

Q. Yes, sir.

A. In the forefront of a group, a crowd, which I personally estimated to be about 200, move in the direction that I have stated, to a point somewhere around there (indicating).

Q. All right, I understood your testimony on that. And that was between the time you talked to Reverend Gray and the time you heard the speech on the monument?

A. I still say that my chronology is not perfect on that time.

Q. All right, sir. Take the stand. Was General Walker walking fast, slow or medium?

A. I would say he was walking at a fast military clip. He was not walking slowly, he was not running.

Q. Do you have a military background?

A. I spent three years in the Army.

Q. You know what cadence is, don't you?

[fol. 1753] A. Yes, sir.

Q. Was he walking pretty much in cadence?

A. As far as any particular cadence, he was walking at a, what I would call a rather fast clip, was standing rather straight and walking at a rather fast clip.

Q. Was anyone else in step with him?

A. I did not notice anybody, whether anybody kept step with him.

Q. Now if at the end of that march that you have outlined there, the crowd had been met with a barrage of tear gas and then went a few feet further and hurled their weapons, bricks, bottles, rocks and wooden stakes, a crowd of that size, you couldn't have helped seeing them hurling these weapons, could you?

A. I testified, sir, that I do not recall seeing anything thrown there. Tear gas fell and tear gas obscured my vision. Whether they were thrown after the tear gas was fired, I don't know.

Q. So you then lost sight of Walker as he proceeded southwesterly up in the northwest quadrant of the circle?

A. I am not too clear, sir, on your directions.

Q. Well, let's get it clear. Get your pointer and let's go up there and get clear. Put your pointer on the point where you lost sight of Walker.

A. Sir, it must have been generally in this area right [fol. 1754] here (indicating).

Q. From there, where were you?

A. I was down in the direction just north of this crosswalk here, just about in this area (indicating).

Q. Then where did you go?

A. I went backwards.

Q. Back where?

A. Back in this direction (indicating).

Q. And where did you next see Walker?

A. My recollection of next seeing Walker was at the monument.

Q. All right. From where did you leave to go to the monument? Put your pointer on it.

A. I don't know. Again I moved throughout this area pretty generally throughout the night (indicating).

And I came from this area over here to a point somewhere along in here when I first heard somebody say that General Walker was going to speak.

Q. And you went over and heard his speech?

A. Yes, sir.

Q. Take the stand. Did Walker say anything at all during this movement he made to this group you testified about?

A. During the movement I couldn't say whether he said anything or not. I was not close enough to him to even hear [fol. 1755] him if he had said something.

Q. Did you hear the start of Walker's speech on the monument?

A. I heard—I was standing there when all of it took place up to the time that Reverend Gray left. Now as to my recollection of what was said at various points is rather limited.

Q. How near Walker were you standing?

A. I must have been 10 or 15 feet.

Q. Which direction?

A. It would have been, as the monument faces east, then I would have been to the north of the easterly direction. I would have been on Walker's left.

Q. Did you see Reverend Gray when he attempted to get on the monument?

A. Yes, sir.

Q. Had you known Reverend Gray before?

A. Yes, sir.

Q. Closely or—

A. No, sir, I only knew him as a face and that was all.

Q. I see. Now what did you do when he started to get up on the monument?

A. When Reverend Gray started to get up on the monument?

[fol. 1756] Q. Right.

A. I didn't do anything.

Q. Now you testified you heard loud booing. Was that before or after Reverend Gray started to get on the monument?

A. Oh, Reverend Gray appeared and there was a great deal of noise as they pulled him back and away from there.

Q. Oh, was that when the booing was?

A. As I recall it, there was some booing at that time, yes, sir.

Q. So you figured the booing was at Reverend Gray?

A. Yes, sir.

Q. But there was very definitely booing?

A. There was—there was uncomplimentary sounds, yes, sir.

Q. Well, you know what a boo is, don't you?

A. Yes, sir.

Q. Was there or was there not a boo?

A. As I recall, there were some boos.

Q. All right. Now, then who brought Reverend Gray down?

A. I don't know, sir.

Q. Did you see a heavy, portly sort of an individual with him?

A. No, sir.

[fol. 1757] Q. Where did you see Reverend Gray?

A. At that time?

Q. Yes.

A. He came from my right, from the edge of the crowd and—somebody pulled him back down and they began to move away from the crowd and went over there with them. Now who was with him at that time, I did not know the people and had no reason to . . .

Q. Where did you go?

A. From that point?

Q. Right.

A. I went to the YMCA Building.

Q. Did you go in?

A. Yes, sir.

Q. How long did you stay in?

A. As it turned out, I stayed for some time. I was in there and at a period of several minutes after I went in, the Marshals came down and threw tear gas all around and it got into the YMCA Building and I couldn't get out.

Q. Now you wrote a report for your paper?

A. Yes, sir.

Q. That has been offered in evidence as Defendant's Exhibit 29.

EXCERPTS OF DEFENDANT'S EXHIBIT 29 READ INTO RECORD

Refreshing your recollection from this, "Into the mob walked Edwin C. Walker, former Major-General of the [fol. 1758] United States Army."

Now where was the mob when he walked into it? Go up there and let's identify and orient this.

A. This was a reference to this point here, when I saw him at this point here (indicating).

Q. All right. The mob then was already formed?

A. Well, there was a mob all over the campus.

Q. No, I am talking about at this point.

A. Well, there were groups of people all around here. When I first saw him, he was with a large group of people.

Q. All right. Oh, well, you didn't see him then walk into this group of people?

He was already with them, is that right?

A. Well, there was—when I first saw him, he was in this group of people.

Q. Well you have stated here, "into the mob walked Edwin C. Walker".

I want to know from which direction he walked and where the mob was when he walked there?

A. Well, when I first saw him, he was walking in this direction and the mob was around him (indicating).

Q. I see. Well you then didn't see him walk into the mob, did you?

A. Well, he was inside—walking in the mob when I saw him, yes, sir.

[fol. 1759] Q. In other words, rather than "into the mob," he was walking with the mob, wasn't he?

A. He was—I had wrote that, sir, on the morning after it occurred.

Q. I understand it.

A. And—

Q. Well, which time is right, then or now?

A. I am trying to explain to you as I recall the thing—

Q. That's what I want.

A. —how it happened. Now there was a crowd, there was Walker (indicating).

And he was in the crowd when I saw him, yes, sir.

Q. He was in the crowd and he did not walk into the crowd after you saw him?

A. Well, he was walking among the crowd and walked to the front of it, yes, sir.

Q. —“around him swirled a whirlpool of humanity and human emotion. Two hundred yards away, a line of gas-masked, club and tear-gas-armed Federal Marshals had turned the ancient Lyceum Building into a Federal fort.

“‘Now we have a leader,’ screamed somebody. ‘Rally to General Walker!’”

Now where did you hear that?

A. From the crowd behind General Walker.

[fol. 1760] Q. And that's when he was already in the crowd?

A. Yes, sir.

Q. “Walker, wearing a Texas hat and a dark blue suit, walked toward the Lyceum, with perhaps 200 men following him.”

Now he walked and didn't run?

A. No, sir, I never did say he ran.

Q. “‘Tear gas won't stop him,’ another person yelled. ‘Follow General Walker.’”

“About 50 yards from the Federal line, tear gas bombs began falling around the group.

“General Edwin Walker (retired),—”

Did you understand he was retired?

A. Yes, sir, that was my understanding.

Q. You didn't know he had resigned?

A. It was my understanding he's retired at that time.

Q. All right. "General Edwin Walker (retired), who wouldn't retreat, did."

Did you see him retreat?

I thought you said you didn't see him any more?

A. Well, I saw him later. He didn't get to the Federal lines.

Q. You didn't see him retreat, did you?

A. I did not see him retreat. I did not see him stop. I did not see him go forward.

Q. In simple language, that's somewhat extravagant [fol. 1761] words, isn't it, young man?

A. Extravagant? The things that occurred around that thing would lead you to believe that he did not go forward.

Q. Well, anyhow, you didn't see him retreat, did you?

A. I did not personally see him retreat, no, sir.

Q. You have stated here, "General Edwin Walker, (retired) who wouldn't retreat, did."?

A. Yes, sir.

[fol. 1762] Q. You may sit down now.

"The former Army officer was just one of the number of outsiders—how many will probably never be known—who egged and aided a hard corps of Ole Miss students into a rock flinging, destructive riot that left two dead, seventy-five to one hundred injured, at least thirty-one arrested and seriously damaged the reputation of a university. I walked through that howling, passionately unthinking mob for more than four hours during the violence here last night. I saw the rock throwers and the agitators. I stood under a Confederate flag hoisted on the flagpole before the stately Lyceum and watched students and outsiders rush the Marshals' lines, retreat before tear gas, regroup and charge again, all without any attempt at control."

And nobody had any leadership whatsoever over this mob, did they?

A. Nobody exercised any leadership.

Q. "Most of the rioters were students, although the number of Ole Miss men steadily decreased through the night. The number of outsiders, non-students, steadily increased. Denim-trousered adults and teenagers from nearby towns furnished the impetus that kept the college boys at their job of injury and destruction."

I am leaving some out.

[fol. 1763] "About an hour after the rioting started, General Walker entered the scene. After his abortive attempt to reach the Marshals' line, he confined his activity to speech making and watching."

That was your understanding? He participated no more after this first attempt?

A. I did not see him participate in any—any more, no, sir.

Q. A crowd gathered around him at the edge of the Grove and he finally said, "All right, I'll speak to them."

Were you down there when that occurred?

A. Yes, sir.

Q. Now, did—I understood you to say that you were attracted to him on the monument as you left the YMCA?

A. No, sir, I did not say that.

Q. Well, what—well, start back up at the YMCA then and tell me what you did immediately before the speech?

A. Well, I had come down to this general area around the monument and I had come down from the direction of the YMCA Building. I see it. I did not say I came from the YMCA Building, whether I was there immediately after, or exactly, I don't remember.

Q. Take the pointer again and point where you were [fol. 1764] when you next saw Walker.

A. I seen him from somewhere up in this area. I had tried to follow things as they went along, and I came down into this area here, and was standing by the monument when next I saw Walker. And he was walking toward—

Q. Well, now, you drew a circle. I wish you would put the pointer where you were standing and where Walker was standing.

A. Well, that is difficult to do, sir. I will try. The best of my recollection, I was standing about here, which is about the same area I remained in, and I moved up and saw Walker, and Walker was standing somewhere over in here (indicating).

Q. Did you see the Highway Patrol go past about that time, or shortly before?

A. I had seen the Highway Patrol go past, but whether it was about that time or shortly before, I don't know. I believe it was prior to this time.

Q. What did you hear Walker say?

A. Walker—I heard some students say, or somebody say, "Walker is going to talk to us." And Walker was standing here. He says, "All right." He turned around, and I could see Walker, and he said, "All right, I will talk to them," and he stepped to the monument.

[fol. 1765] Q. You say, "He finally said 'all right, I will speak to them.'"

What do you mean by "finally"?

A. I don't recall, sir.

Q. Prior to that time had he refused to speak to them?

A. Not to my knowledge, or I don't know.

Q. Take your seat.

"Just prior to that an Episcopalian Priest, Rev. Duncan Gray, Jr., had tried to talk him into leaving and taking the crowd with him. 'They'll follow you,' Gray said. But Walker stood at the foot of the old Confederate monument and began speaking. He told the crowd there had been a 'sell-out'. He said a representative of the Governor's office had told him that Ross Barnett's orders were not to let the Marshals on the campus. After an impromptu whispered conference with a blue-coated follower, Walker said that a member of the Highway Patrol had been responsible for the sell-out. Again there was a conference and Walker said, 'the name is Birdsong.' Col. T. B. Birdsong is the head of the Highway Patrol and was in the car that led the first group of Marshals to the campus during the after-

noon. Then referring to the Episcopal Priest who had asked him to leave, 'I am ashamed that I am an Episcopalian.' At this point Rev. Gray appeared in front of the [fol. 1766] crowd and was forcibly taken from the area by men who feared that he would be injured. Later a group of students attempted to arrange a truce, but were unable to make the deal."

Walker was not part of this, was he?

A. Not that I recall.

Q. Where were you when that occurred?

A. When the truce occurred?

Q. Yes, sir.

A. I was up in the area where the truce talk was taking place.

Q. How long after the speech on the monument did this truce incident take place?

A. I couldn't say. I don't recall.

Q. You have no idea how long you were in the YMCA?

A. In the YMCA?

Q. Yes.

A. Oh, it was ten or twelve minutes, until the gas had cleared around the YMCA, until I could get out.

Q. Was Walker's speech just started, just finishing, in the middle, when Rev. Gray was taken out?

A. When Rev. Gray was taken out? Now, anything that was said after Rev. Gray appeared I don't know, because I left with Rev. Gray and I did not hear any more [fol. 1767] Walker.

Q. Did you hear Walker say Governor Barnett had betrayed the people of Mississippi?

A. No, sir, I didn't.

Q. Did he say not to let up now, "You may lose this battle, but you will be heard?"

A. I don't recall that.

Q. Did he say, "This is a dangerous situation, you must be prepared for possible death, if you are not go home?"

A. I don't recall that.

Q. There were cheers, apparently Walker had complete command over the group. Anything like that?

A. Yes, sir, there were cheers, now. And it was evident to me that the group seemed to be behind General Walker.

Q. Also there were boos?

A. Well, there were boos at the time Rev. Duncan Gray came up.

Q. Did you ever hear General Walker beg the students to cease the violence?

A. No, sir, I did not.

Q. As a newsman, did it come to your attention that the United Press International report written by Mr. Alfred B. Kuettner said that, "During a lull in the riot, General Edwin A. Walker mounted the Confederate statue on the [fol. 1768] campus and begged the students to cease their violence, and was met by one massive jeer". Did that come to your attention?

A. No, sir, I never saw that.

Q. Did you ever hear of it from that day to this?

A. No, sir, I have not. This is the first time.

Q. This is the first time?

A. This is the first time I have heard of it.

Q. You never even heard any discussion of that around the newspaper?

A. No, sir, I haven't.

Q. That is all. Just a minute.

Did you see General Walker after he got off the monument?

A. As I recall it, I saw him in the general area. I did not hear anything.

Q. Will you tell us about what you saw him doing in the general area after the speech on the monument?

A. Well, sir, after the speech was over on the monument, my recollection is I did see him in the area walking around, occasionally talking to somebody, and I was never very close to him after that.

Q. No charge then after the speech on the monument?

A. I did not see one.

Q. Now, there is a headline on this dramatic account [fol. 1769] here, "Walker charges then falls back." Did you write that?

A. No, sir, I did not.

Q. You never did see him charge, did you?

A. I saw what I called a charge in my story, sir, which would be the move toward the Lyceum Building.

Q. Pardon?

A. I saw the move that I—that that charge is referring to, is the move toward the Lyceum Building.

Q. Would you read to us, please, sir, out of that story anything you wrote that said that Walker led a charge?

A. I did not say anything—I did not say that he made a charge, no, sir.

Mr. Watts: That is all.

Mr. Gooch: That is all.

The Court: I am going to excuse this witness. You may be excused.

Mr. Gooch: The defense rests.

The Court: What says the Plaintiff?

Mr. Watts: The Plaintiff is ready to start reading depositions, sir.

The Court: All right.

Mr. Watts: Might we have a five-minute recess to get these depositions assembled?

[fol. 1770] The Court: All right, Ladies and Gentlemen, the Defendant has rested, and the Plaintiff will offer probably some rebuttal evidence, so step into the Jury room for about five minutes until I call you back.

(Short recess was had.)

[fol. 1771] Mr. Watts: This is the deposition of Louis Milner, Associated Press employee, taken at New Orleans, on March 30, 1964.

LOUIS MILNER, testified by deposition as follows:

Direct examination.

By Mr. Watts:

Q. Your name is Louis Milner?

A. Yes, sir.

Q. Your profession?

A. Newsman.

Q. For whom? And how long?

A. For the Associated Press. Since January 27, 1946.

Q. What is your education, Mr. Milner?

A. Bachelor of Science in Journalism from the University of Illinois.

Q. When did you graduate?

A. 1934, on July 11th—make it June 11th.

Q. During your undergraduate days, give us all the organizations to which you belonged?

Mr. Watts: I think we can skip that. Wait just a minute. On Page 144, line 10.

Q. What was your assignment in the New Orleans AP Bureau?

A. As of the present?

[fol. 1772] Q. What has it been since you have been with them?

A. Well, we have several shifts here. There is a radio assignment, day rewrite, day editor, overnight, night editor, night filing editor, night radio.

And first of all, my time has been spent on the night side.

At present, I am night editor.

Q. How long have you been night editor?

A. I couldn't give you an accurate answer.

Q. Since before or after September 30, 1962?

A. Long before.

Q. Where were you on September 30, 1962?

A. I was on the night desk.

Q. Where were you working that day?

A. That day? /

Q. Yes.

A. That night, you mean?

Q. Yes. I will make it more specific. Were you on duty from 8:00 o'clock through midnight of that night?

A. Let me check and see. And what time did you say? From 8:00 p.m., through midnight?

I reported at 5:30 p.m., and I left at 8:30 a.m., the following day, 8:30 a.m., yes.

Q. What was your assignment and duty?

A. Night desk.

[fol. 1773] Q. What is the nature of that duty?

A. Was that a Sunday or a Monday?

Q. That was a Sunday.

A. Yes, I was correct. Night editor and night editor has charge of the night desk, and, also filing the wires.

Q. Did you do anything else during the course of that evening?

A. What do you mean by "anything else"?

Q. Other than handling the night desk and filing the wires?

A. No.

Q. Did you operate the telephone at any time specifically?

A. No, sir.

Q. Could you take your copy here from the night of September the 30th, and pick it up and let me ask you some questions about it?

A. Yes. Is this the original copy or a teletype copy? What specific story?

Q. Well, I am interested in any stories during the course of the evening with which you had any contact that to do with General Walker.

A. Well, here—

Q. Well, I have some others here that were apparently [fol. 1774] presented to me at the time of the taking of the Savell deposition.

A. Well, that would be difficult to—you see, unless I saw the original typewritten copies so as to see whether it passed through my hands or not, because the normal procedure on a normal night, the story comes to me and then it goes on the wire after it has been edited for grammatical errors and ready for the wire.

And in times of stress, it is possible for someone else of equal, shall we say, experience to put it on the wire directly.

Q. How long had you known Van Savell?

A. I had known him ever since he had joined the Bureau.

Q. Did you consider him to be an experienced news reporter on the night of September the 30th, 1962?

A. I did.

Q. What did you understand his experience to be?

A. The past performance.

Q. Did you understand that he had only one year of college and less than a year of full experience?

A. Yes.

Q. What past performance are you referring to now that indicated his experience?

A. Well, his general performance in the Bureau.

[fol. 1775] Q. Outline to us what you mean.

A. Well, just his handling of various stories nearby in comparison with the others.

Q. I wish you would turn to the earliest release there that you can identify that may refresh your recollection and tell us what happened that night.

A. I recall having read this story and this is noted as XAB, and I don't recall whether I was the one who put it on the wire or not.

Q. What is the timing on that?

A. 3:45 a.m., on the morning of October 1st.

Q. Who handled the incoming calls to the New Orleans Bureau that night?

A. I don't know. There were several people.

Mr. Watts: Now, if Your Honor please, in connection with this, I would like to read that communique, XAB, to the jury, but it will involve considerable shuffling of papers and if it is acceptable to the Court, I would like to pick that out over the evening and read it the first thing in the morning, referring back to this portion.

The Court: All right.

Mr. Cravens: Is that the only number you have got on that?

Mr. Watts: That's the only one I have so far.

[fol. 1776] Mr. Cravens: I mean is that the only number designation you have, just XAB?

Mr. Watts: That's his designation.

Mr. Address: It's capital X dash capital a parenthesis small b parenthesis close.

Q. What is the timing on that?

Mr. Gooch: Where are you reading from now?

A. 3:45 a.m., on the morning of October 1st.

Mr. Watts: I am reading—

Mr. Gooch: Mine shows 3:54. I don't know whether you are right or not.

Mr. Watts: 3:54 is what it is.

Mr. Address: 3:54. Isn't that what I said? I'm sorry. I reversed it. 3:54 a.m., on the morning of October 1st.

Q. Who handled the incoming calls to the New Orleans Bureau that night?

A. I don't recall. There were several people.

Q. Do you know any of them?

A. I would know anyone who was there but I don't recall who was on duty at this time.

Q. Could you give us the name of anyone that you do know that was on duty?

A. No.

Q. What was the first you heard that night that Walker

[fol. 1777] was alleged to have led the charge against the U. S. Marshals?

A. Well, these stories here are out of order and I don't recall the time.

Q. Have you ever heard of anyone other than Van Savell who reported or has purported to have seen General Walker lead a charge on the night of that riot?

A. Normally I wouldn't.

Q. So the answer is no?

A. No, it isn't no.

Q. Well, what is it?

The question is, please, sir, have you ever heard of anyone other than Van Savell that purported to have seen General Walker lead the charge? Just say yes or no. I think you can answer that yes or no.

A. Well, it's like the question, "have you stopped beating your wife?"

Q. No, it isn't.

A. It is to me. Could you rephrase it?

Q. Did you hear that Van Savell reported that he had seen Walker leading the charge?

A. Yes, sir.

Q. Did you hear anybody else other than Van Savell make such a report?

A. Not to the New Orleans Bureau.

[fol. 1778] Q. Have you heard anyone, to the New Orleans Bureau or elsewhere, that anyone else made such a report, that Walker was leading the charge?

A. I understand there have been reports.

Q. Could you give us the name?

A. No.

Q. I mean of any individual who made such a report?

A. No.

Q. Where did you understand that there had been such reports?

A. Just rumors, reports that had drifted to the Bureau since then.

Q. That have drifted where?

A. To the Bureau.

Q. Has anyone made an investigation of such reports?

A. I don't know.

Q. So that you at this time know, or I should say, do you know at this time of any individual other than Van Savell who claimed that he saw Walker lead the charge?

A. You mean person?

Q. You personally?

A. No.

Q. As of October 1, 1962, from your observation of the news bulletin that went out through the office where you were working, was the news disseminated that Walker had [fol.1779] led a charge of rioters on Mississippi University on the night of September 30th?

A. Whatever is contained in these stories, it was disseminated.

Q. Did you hear anyone in the Associated Press Bureau or anyone connected with the Associated Press ever at any time discuss the fact that UPI reporter, Mr. Al Kuettner had issued a report in form as I point out to you now on Page 32, of Mr. Kuettner's deposition, starting with Line 17?

A. I have never seen this before.

Q. Have you ever heard of such a report being issued by the UPI wire service?

A. No, sir.

Q. As far as you are concerned, then; you never heard any question as to the veracity of the Savell report?

A. No.

Q. Where were you assigned from September—I mean from October 1 through October 6th, 1962?

A. To the New Orleans Bureau.

Q. Were you doing the same type of work there that you were doing on the night of September 30th?

A. Yes, sir.

Q. During that period of time did it come to your atten-

tion in your official position as evidenced by the certified [fol. 1780] copy, or copies, of the original complaint of the United States against Edwin A. Walker that Van Savell had furnished to the Government the information upon which its complaint was filed against Walker?

Mr. Gooch: If the Court please, I don't know what relevance this has to the case.

The Court: Let me look.

Mr. Gooch: But it's far afield from anything—I don't know what limits we are going to on rebuttal. This does not occur to me to be rebuttal testimony and I object to it.

If he wanted to put something in in his case in chief, but this is not rebuttal of anything that I know of.

Mr. Watts: This man is an official of the Associated Press and it's rebuttal against all these witnesses that have testified.

Mr. Gooch: Mr. Watts, let me finish my objection.

The Court: Just a second, Mr. Watts. Go ahead, Mr. Gooch.

Mr. Gooch: There is no pleadings to support any such issue as now is sought to be taken before this jury, and for the further reason that in connection with the filing of the Complaint, the witness, whoever he has, has no choice as to whether his name is put on a Complaint or [fol. 1781] not, or a list of witnesses; it's done entirely by the law enforcement officers.

Mr. Watts: I will save the controversy and withdraw it. Question on Line 22.

Q. Were you at a later time assigned the responsibility of covering a sanity hearing involving General Walker on November 21st and 22nd, of 1962?

A. In part, yes.

Q. Who else was responsible for that?

A. Van Savell.

Q. And were you and Van Savell collaborating in the coverage of that sanity hearing?

A. I would say divided responsibility.

Q. To whom did you look as your immediate superior?

A. You mean in Oxford?

Q. Anywhere?

A. That would be to the Bureau Chief in New Orleans.

Q. That was Ken Davis?

A. Yes, sir.

Q. What order did he give you when you went to Oxford?

A. To cover the hearing.

Q. And where did you stay in Oxford?

A. At the Ole Miss Hotel.

Q. Did you encounter Van Savell there?

[fol. 1782] A. Yes, sir.

Q. Did you visit with him concerning this incident?

A. Did I what?

Q. Did you visit with him concerning the Walker incident, discuss it with him in any way?

A. No.

Q. You mean you went to Oxford to cover this hearing and met Van Savell, who had written the original report, and didn't have a word of conversation with him about what he had seen and what he had written?

A. No, sir.

Q. Where did you first see Savell?

A. Where?

Q. Where in Oxford?

A. I don't recall. Possibly at the motel.

Q. Where was he staying?

A. I assume at the motel.

[fol. 1783] Q. Did you see him there?

A. At the motel?

Q. Right.

A. Yes, sir.

Q. What did you say to him and what did he say to you?

A. About what?

Q. About anything.

A. I don't recall.

Q. Do you recall anything? At all you said to him or he said to you?

A. No.

Q. You mean you have not one iota, not one solid recollection of the conference you had, or conversation you had with Savell when you went to report on this hearing?

A. Why no.

Q. Did you arrive the day of the hearing, or the day before?

A. I would have to check my work schedule to find out.

Q. What did you think of General Walker when you went up there—before you went up there—

. . .

Mr. Watts: I think that is probably not—
[fol. 1784] Mr. Gooch: Go ahead and read it.

. . .

Q. Before you went up there did you have any idea about him?

A. No.

Q. Had you read anything about him, or have any concept about him at all?

A. Why naturally I had read stories which had appeared. He was prominent.

Q. All the stories you had read were adverse to him, weren't they?

A. I don't recall any. Purely objective.

Q. You were not one of his admirers?

A. I have no feeling toward him either way.

Q. You were just completely negative, have no feeling pro or con?

A. Naturally.

Q. And you were performing your duties?

. . .

Mr. Andress: You missed one.

Mr. Watts: Skip to the next one.

. . .

A. Why sure.

Q. Now, do I understand that you arrived there the day before the hearing?

[fol. 1785] A. I didn't say. I said I would have to check my work schedule.

Q. And when and where can you check it?

A. I was probably on overtime and my overtime blanks are at home.

Q. Well, would you bring those with you tomorrow?

A. What time?

Q. Whatever time you come. Let's see. What time do you think you will arrive?

A. It will probably be in the afternoon. I think that is about the only plane connection.

* * *

Mr. Gooch: If the Court please, in the interest of time, I can't see any rebuttal in this.

The Court: What is the purpose of a lot of this?

Mr. Watts: The purpose of a lot of this, if Your Honor please, they have brought in a lot—a lot of witnesses. I won't comment on the testimony, Your Honor heard them, and here is a man in the Associated Press, New Orleans Bureau, one of the officials.

The Court: I am not talking about—

Mr. Watts: And the purpose of it is to show the confusion and the disafusion (sic) of information that circulated about the district office where this thing was all being related from.

Mr. Gooch: If the Court please, we are trying a case about a story that we admit Van Savell wrote. I don't know the purpose of going a long discourse about what was discussed after the story was written.

The Court: I think, Mr. Watts, you can reduce a lot of this.

Mr. Watts: I think perhaps I can skip some of it as I go along.

The Court: Do that and I will overrule the objection for the time being.

Mr. Watts: Let me have a quick look then. A lot of this is preliminary, and of course this was a discovery deposition, and a lot of the things there I have since learned.

All right, on page 156, line 19. This is offered for the purpose of showing either malice or reckless disregard of the truth.

. . .

Q. Did you ever at any time during your reporting of the Walker hearing on November 21st and 22nd bother to go to the Clerk's office and check the file to see what issues were involved in the hearing you were covering?

A. I believe Savell filled me in on it.

[fol. 1787] Q. What did he say?

A. I don't recollect at this time.

Q. And you didn't consider it worthwhile yourself to go in and check the file?

A. I depended upon him.

Q. I see. Are you sure of that?

A. Positive.

Q. Did Savell tell you that he had been listed on the Government's complaint as a complaining witness?

. . .

Mr. Gooch: If the Court please—

The Court: That wouldn't have anything to do with this.

Mr. Gooch: The Jury should be instructed not to regard that. A witness has no earthly way—

The Court: Ladies and Gentlemen, you are instructed not to consider that in any way. A witness doesn't have any choice of whether or not he is going to be called as a witness. That is not up to him. That is up to the governmental agency involved.

Mr. Watts: I will skip on over here.

The Court: I tell you what I think I will do. I believe I will go ahead and recess and let you look over the depositions tonight.

Mr. Watts: All right. That will give us a better chance [fol. 1788] to eliminate preliminaries.

The Court: Ladies and Gentlemen, we will recess until 9:00 o'clock tomorrow morning.

(Thereupon, at 4:25 p.m. an adjournment was taken until the following morning, Thursday, June 18, 1964, at 9:00 o'clock a.m.)

[fol. 1791]

PROCEEDINGS

The Court: Good morning Ladies and Gentlemen.

The Plaintiff had a witness which he wanted to offer but he isn't here and I told him we had waited what I considered to be a reasonable length of time for him. So what says now the Plaintiff?

Mr. Address: The Plaintiff closes.

The Court: What says the Defendant?

Mr. Gooch: I would like to offer in evidence, if the Court please, two instruments which are—will you mark this, please, Mr. Nuss, as the Defendant's Exhibit, next number, and this.

(Thereupon, Defendant's Exhibit 30-A and 30-B, were marked for identification.)

Mr. Gooch: This will be 31.

(Thereupon, Defendant's Exhibit No. 31, was marked for identification.)

Mr. Gooch: We offer in evidence at this time news releases of the UPI under dateline of October 1, 1962, in connection with the testimony of Al. Kuettner, of United Press, who testified by deposition.

The Court: What numbers are those?

Mr. Gooch: Numbers 30-A, 30-B, and 31. I will read excerpts from them.

The Court: They are admitted.

[fol. 1792]

EXCERPTS OF DEFENDANT'S EXHIBITS NOS. 30-A, 30-B
AND 31 READ INTO RECORD

Mr. Gooch: Reading from a portion of 30-A and 30-B, which are reports of United Press International under date-line of October 1, 1962, "The Justice Department announced today that Major-General Edwin Walker, -resigned Army General who has become a vocal advocate of right-wing causes, has been arrested at a roadblock in Oxford and charged with a number of offenses, including inciting rebellion.

"Walker was seen during the riots egging the students on."

And from United Press International under date October 1, 1962, this excerpt, "Students were waving the Confederate flag during a lull in the rioting. Edwin A. Walker, former Army Major-General who commanded troops at Little Rock, mounted a Confederate statue and advised the students to cease their violence. 'This is not the proper route to Cuba,' Walker, who was wearing a big Texas hat, said. The crowd jeered. Later, Walker mounted the statue again and said: 'I want to compliment you all on the protest you make here tonight. You have a right to protest under the Constitution.'"

That concludes the evidence of the Defendant.

The Court: Ladies and gentlemen, that concludes all of the evidence. Now we haven't wasted our time this morning. We have already finished preparing the Charge, so [fol. 1793] we will be ready to argue the case at 2:00 o'clock.

We will recess until 2:00 o'clock. At that time be back in the jury room, please.

(Thereupon, at 11:45 o'clock, a.m., a recess was taken until 2:00 o'clock, p.m., of the same day.)

. . .

[fol. 1794]

Afternoon Session

2:00 P. M.

The Court: Ladies and Gentlemen, I will first read you the charge of the Court in the case.

(Charge read.)

The Court: Now, after argument of counsel I will deliver this charge to you and you will actually take it into the Jury room with you. I believe Mr. Andress will open for the Plaintiff.

OPENING ARGUMENT OF PLAINTIFF BY MR. ANDRESS

Mr. Andress: May it please the Court, I will charge on the Jury.

Ladies and Gentlemen of the Jury, we have now reached nearly the final stages of nine long days of presenting testimony. Some of it, unfortunately, we have had to rather present over and over again to see the picture. We have tried our best to bring you all of the portions of the picture, all the paint, brush, all the soap of it, and everything of the sort.

The picture is not complete.

The reason it is not complete is not the fault of General Walker and his attorneys. There is one big portion of this picture missing. That portion is to hear from the witness stand live, presented to you where we can cross examine [fol. 1795] him, the story of the man who started all this, Van Savell; the hired hand of the Associated Press who brought witness after witness, a preacher, the Dean of the college, other newsmen, radio people in here, but they didn't bring in the one man who could stand up here before you and tell you that he acted in good faith, that he thought he was writing a fair comment. That he was telling what he believed to be a truthful story, or who, perhaps, on cross examination, would break down and admit that as a sports writer with the Associated Press for about a year

he fell into this confusion and completely lost his objective and he painted the kind of picture that he wanted to paint, and he sold it to his superiors.

Why isn't he here? We don't control Mr. Savell. He doesn't work for us.

Now, there is another thing that is missing here. Another thing that is missing here. Van Thomas, the first witness who testified by deposition, the re-write man down in New Orleans told you by the deposition that he talked to their photo people up in Oxford; that they had a wire photo network set up down there in the hotel, and they were behind the Marshals where they could take at least [fol. 1796] a couple of pictures in the dark of the Marshals.

Why didn't they bring in here a single solitary picture of General Walker supposedly leading a charge of 1,000 students across that campus to attack or attempt to attack United States Marshals in an act of insurrection against the authority and the President of the United States?

Why didn't they bring those pictures in? We didn't have a photographer to do it, or a photograph network. They had it. If they could take those pictures that they offered here in evidence, I submit to you that if any such charges had been made or led by General Walker that they would have had pictures. Can you imagine, can you conceive of anything more newsworthy under high Heaven, any greater scoop that any news media could possibly have than to have a picture of a former Major General in the United States Army violating every code or canon of ethics that he had been brought up with, to lead in insurrection, a charge against Marshals of the United States right after the President of the United States had made a speech and executive proclamation.

We really submit that that didn't happen.

Now, you are asked here a number of questions, eleven of them. That is just one more than one question per day [fol. 1797] for the time we have spent here. The Court gives you some definitions. I want to call to your attention

a couple of those definitions, and point out the fact that the first one you have is "lead a charge". This paragraph defines both "lead" and "charge" and, of course, the newspaper report was that he led a charge. So that is one phrase. [fol. 1798] So that that's one phrase. "Led," means activities by a person who directs, moves to action, or encourages in some action or movement toward the Marshals or a group of body of people moving toward an objective.

Well, now bear in mind that every time anybody down here at the monument turned and walked west, that is technically speaking a movement toward the marshals.

Is it a Charge?

Where—well, I was brought up on the Charge of the Light Brigade, pickets charged at Gettysburg and Teddy Roosevelt's charge up San Juan Hill and I can't see where there was any such movement that could be defined as a charge or one that General Walker led on the campus of Ole Miss that night because there is one thing, there is one thing on which people are practically unanimous—I hesitate to say "unanimous," because I don't want to mislead you and there were so many witnesses here that, very frankly, I am not sure but what somebody testified to almost everything—but the witnesses were practically unanimous in saying that General Walker never got out of a walk; that some of them said he moseyed along and some said he milled around and some said he strolled around the campus and some said he walked here and around but the best we have ever gotten was a brisk pace—and then only by two [fol. 1799] members of the news media, people who are in the same field of endeavor as the Associated Press.

Now one thing you want to remember about this—these witnesses is, who's got an axe to grind?

Did these kids that were on the campus and for whom disciplinary action and all threat of disciplinary action has apparently passed, have they got an axe to grind or are they telling it to you, laying it on the line the way they saw it?

You saw young Sweat, Dick Sweat, the first boy that testified here today, got himself all scared of the Judge and said, "I take it back," when he was going a little bit farther afield than he ought to go.

Those boys didn't have, haven't got anything to gain by it.

Now what about somebody that's in the news field, that's on the radio or working for a newspaper where the Associated Press controls their news and where their future in the newspaper business, certainly isn't going to help them any if they have been in here fighting the Associated Press.

So bear that in mind when you consider the stories that these various witnesses told you.

[fol.1800] Now, we only have an hour to the side and Mr. Watts is going to give you most of the details in trying to summarize the manner, so let me go on to these questions.

The first question that was asked of you, "Do you find from a preponderance of the evidence that the statement, "Walker, who Sunday led a charge of students against Federal Marshals on the Ole Miss Campus" was substantially true?

We submit to you that from a preponderance of the evidence, that question ought to be answered "No", he didn't lead a charge.

The most that anybody has said is that he was with a group who walked up—Savell's own story, by deposition, is that he started from the monument here and he walked up—where is that pointer?

Well, at any rate, he walked up on a diagonal, off at an angle here until he got up here, and then he walked along the inside edge of the circle until he got some place over in here (indicating).

And he walked. Now, a thousand people takes up a lot of room. That actually is not such a big area. It is about 500 feet across. The scale is a foot to an inch and you all can have this map, you can have it moved into your Jury

[fol. 1801] room and look at it and study it and look at the scale of things on there.

That's not a very big area. And it's full of trees, as, if you get up here close, those dots are trees, that will tell you pretty much about what kind of a place it was.

He didn't lead a charge. There wasn't a charge in the sense of the word that we think of charge and never did he lead one.

Nobody, even those who say he was in the forefront of a big mass movement, the defense witnesses, no one of them ever says that he issued any commands or purported to say, "Bring it up on the right, come up here on the left, all right, now double quick," or anything of that sort. Nobody says he issued any commands.

Now, certainly, if you lead a charge, you are telling people what to do. And we submit that Special Issue No. 1 should be answered "No".

Special Issue No. 2, "Do you find from a preponderance of the evidence that the statement, 'Walker, who Sunday led a charge of students against Federal Marshals on the Ole Miss Campus,' complained of by Plaintiff, constitutes fair comment describing the Plaintiff's activities on or about September 30, 1962, at the places described in the [fol. 1802] evidence and under the then attendant circumstances?"

Well, there isn't but one person, really and truly who can say whether what he wrote is fair comment and that's Van Savell and he is not here to tell you that, in his opinion, that was fair comment on what he actually saw.

We don't see how you could possibly, under the evidence, without Savell telling you that he thought it was fair comment on what happened, answer it yes—so we think the answer to it must be "No", that it isn't fair comment.

There was a confusion, a disorderly, disorganized confusion with lots of mad boys that had been tear gassed running up and throwing anything they could lay their hands on, but there wasn't anything of concerted action,

anything bigger than small groups of half a dozen to a dozen who were sporadically running forward and throwing rocks.

Special Issue No. 3, "Do you find from a preponderance of the evidence that the statement inquired about in Special Issue No. 1 was made in good faith in reference to a matter in which the Defendant had a duty to report to its members and then to the public?"

[fol. 1803] Well, that phraseology, of course, is very pious phraseology but it boils itself down to one thing, good faith. Whose good faith? The good faith of the man that wrote the story. Did he come here and tell you folks, "That's the way I saw it, and I was doing my best to do my duty and I think that what I said was fair comment on what I saw and certainly my intentions were good. I did this in good faith?"

You would have to speculate to say that, yes, it was good faith because you don't know from the witness who did it, who wrote it.

We say then that the answer to Special Issue No. 3, from the preponderance of the evidence, we believe, should be "No," it was not in good faith.

It is necessary to establish that it was good faith and unless you think it's established, you should answer that question, "No."

Special Issue No. 4, "Do you find from a preponderance of the evidence that in publishing the statement set forth in Special Issue No. 1, the defendant, Associated Press, was actuated by malice as that term is hereinafter defined?"

And the Court tells you that "malice," is meant ill will, bad or evil motive, or that entire want of care which would raise the belief that the act or omission complained of was [fol. 1804] the result of a conscious indifference to the right or welfare of the person to be affected by it.

" entire want of care which would raise the belief that the act or omission complained of was the result of a conscious indifference to the right or welfare of the

person to be affected by it," well, in a certain sense of the word, of course, all of us are dependent for what we believe about what goes on in the world and in our country upon what we read in the newspaper. We get to the point where, if we see it in print, we are inclined to believe it's so.

And I suppose when you come right down to it, very few of us have ever analyzed what goes on behind that and I don't imagine that there are very many citizens who have had the opportunity that you folks have had here in the course of the last nine days to see just exactly how much care or lack of care goes into the printing of a story that can affect an individual and his reputation and his standing in the community as much as this story affected General Walker.

[fol. 1805] Now, we have got a most peculiar situation here. At least I hope it is peculiar. I still want to believe in my own mind and my own heart that most of these things I read in the newspapers are so. But, in this case we have got it real clear, that this young fellow with short experience, and most of that writing sports run out onto this campus and he painted a big beautiful picture as to what happened out there. And I have always heard it said that every newspaperman wants to be an author, and many of them do achieve it.

But, I don't think they ought to start their career in their first year by writing fiction, and I submit to you that from what you have heard from this witness stand, the story Van Savell wrote out there is mighty close to fiction; that there is just lots and lots of inaccuracies on his hands; lots of things that in his excitement and in the confusion that he thought he saw and that he put down.

I am going to leave to my colleague, Mr. Watts, to point out to you the differences between the story that Savell told by his deposition, and that he told to his re-write man about when the charge occurred, and the great discrepancies there are in the stories, about when the incident took [fol. 1806] place, as to whether it was before or after the

speech on the monument, not even including the third story by Mr. Graham.

But, to me, the fact that Van Savell, with his light amount of experience, wrote this story and that nobody checked him, and that Van Thomas said that he got only one report about the speech and the charges and that Savell was the only person who ever reported, so far as he knew—no one but Savell reported the charge, and that Relman Morin, by his deposition, said that when he wrote the follow-up story he just picked it up from Savell and had no information except from Savell.

You have got a situation here where General Walker's reputation has been harmed and ruined by one unsupported, unsubstantiated, uncollaborated story, where nobody ever went back to check on the situation and see whether this story full of gory details could be backed up by anybody except this inexperienced young reporter, just one step beyond a cub reporter.

We think that to dissemble a story like that over the wires of the world without making any attempt to check up on it, we think that that comes under the heading of that entire want of care which would raise the belief that [fol. 1807] the act or omission complained of was the result of a conscious indifference to the right or welfare of the person to be affected by it.

Now, let me point this out. The mere publication of the story, the original story, is not itself evidence of malice. But, it was followed up, Relman Morin wrote another story and repeated all this, then along comes the story about when the General was thrown into the mental institution without warrant, and when the charges were ultimately dismissed against him, the slanted story that sticks out of context, the things which were unfavorable to the General, and failed to give the same circulation throughout the world to those stories that showed that the one psychiatrist said he was operating under a superior intelligence, and

the fact that those charges were dismissed without any qualification.

[fol. 1808] So we think that when you take all of those together and look at the entire attitude of the Associated Press in this case, that your answer to Special Issue No. 4, should be "Yes," they were actuated by malice.

Now malice is either of these things, ill will, bad and evil motive—I am not going to stand here and attribute an association of many newspapers all over the world to petty gossip or evil motive and so on.

We say that it is a conscious indifference to the rights of General Walker. That is what it is.

Special Issue No. 5, do you find from a preponderance of the evidence that the statement, "Walker assumed command of the crowd," was substantially true?

We think the answer to that is no. Nobody ever testified he gave any orders to the crowd. There is nobody that ever testified that anything more than a fact that with a group around him he was walking around that campus, and nobody said he ever said, "This way, come on, or let's go," or anything you would do if you were assuming the command of the crowd. We think the answer should be "no".

Special Issue No. 6, similar to Number 2. Do you find that the statement, "Walker assumed command of the crowd," was a fair comment.

[fol. 1809] The man that could tell you whether it was a fair comment isn't here. He hasn't stood up and been counted. He is unwilling to let this jury pass on him, his truth, his veracity, his—how he answers questions, whether he dodges, whether he hesitates, whether he equivocates, whether he has the appearance of truth like most of these young fellows from the University of Mississippi before you. Why you could look at those people and tell they were telling the truth.

That is what you haven't had the opportunity to do with Van Savell, and that is what the Associated Press failed to produce for you.

Number 7, do you find the statement made in Special Issue No. 5, was made in good faith. That is the same thing. We think the answer ought to be no. The man who could say it was in good faith is not here, the man who wrote it didn't come in here and tell you he did it in good faith.

[fol. 1810] And "If I hurt somebody, I am sorry."

Do you find that the statement "assume command" was actuated by malice. And the same definition of malice. We say again that the statement was made with gross indifference to the rights of General Walker.

Number 9, what sum of money do you find would compensate him. What sum of money would compensate him for the damage done to the reputation and honor of an Army General accused of insurrection. I don't know, that is the kind of thing that is so very difficult to say. One of the things that is almost impossible to say, by me.

However, we do know the story had wide circulation here through the Star Telegram. We know the Star Telegram is the Bible of the cattle country and West Texas. We know that out in the West here everybody reads the Star Telegram. We know that it's circulation is widespread. How many people read each one of these newspapers? I don't know. But, I strongly suspect there are very few homes that take more than one copy of this paper, and I suppose that almost everybody up to reading age reads that paper. Must be three or four people read every issue, every copy of it, on the average.

[fol. 1811] If the paper has got a circulation of a quarter of a million, say 250 thousand, and four people would read it, the damage that the General is asking is one buck, one dollar bill for everybody that saw and read these false stories about him.

Approximately—using those figures, and I think they are not unreasonable, that is about one million people that saw it in the Star Telegram. That is what he is asking for, one dollar for everybody that saw the story that hurt him, that ruined his reputation, creating a definite impression that

here is a man, who has served his country all these years now leading an insurrection.

The question of the right of somebody who has been in the United States Army to subsequently withdraw from that Army, resign his commission and do battle against the United States has been forever settled one hundred years ago. The Civil War said you can't do it.

So, today the General Walker was doing, was leading an insurrection against his country, is a damaging statement, for a man in his position, and one for which he should be compensated.

[fol. 1812] Special Issue No. 10, do you find that this is a case in which exemplary damages should be awarded. And exemplary damages are, as the Court defines it to you, penalty or punishment.

They are in your judgment, to be awarded if you want to say to the Associated Press, "Don't do it again; don't do it again."

"Don't ruin a man's reputation without checking your story before you put them out all over the world."

We think the answer is yes, that it is a kind of a case where the punitive or exemplary damages should be allowed, and what they amount to is what you are asked in Issue No. 11.

Ladies and Gentlemen of the jury, I wouldn't attempt to tell you what amount of damages to find to punish the Associated Press, that is, if you believe he is due.

But if you view this evidence as I view it, and as I think it comes to you from the witness stand, I think you will agree with me that it is a bad, bad situation, and our knowledge of what goes on in the world can be made to depend on an unchecked, uncollaborated story that paints a man with a long career of patriotism and service to this country as, in essence, a traitor, leading an insurrection. Thank you.

[fol. 1812a] OPENING ARGUMENT OF DEFENDANT BY
MR. GOOCH

Mr. Gooch: May it please the Court and Ladies and Gentlemen of the Jury. Mr. Address, as I view it, has spent most of his time critical of our not bringing Van Savell here to testify in this case. I would respectfully call to your attention the fact that the Plaintiff in the case, through his Chief Counsel, Mr. Watts, took Van Savell's deposition, in which he was tendered to him to ask all of the questions under the sun that he might want to ask him. You heard the testimony offered by the Plaintiff in this case in which, —and we read all of the answers of Van Savell to the Jury, on the questioning by Mr. Watts, Chief Counsel for General Walker.

He says we brought no photographs. Believe you me, if we had had them we would have brought them. We couldn't find any. We brought all we could find. And I might also state to you, Ladies and Gentlemen, that from what we understand and from the witnesses' understanding, it was not very healthy to have even a pen and pencil out there on that campus that night, let alone photographs to try to take a picture.

He also says that the Associated Press should be criticized because they didn't put out that story of the type that during the sanity hearing of General Walker, that General [fol. 1812b] Walker was operating under a superior level of intelligence.

Ladies and Gentlemen, we introduced in evidence in this case, which we did not read to the Jury, but which you can take into the witness (sic) room, if you desire, a verbatim—verbatim report of Dr. Stubblefield's report, wherein it contains that phrase. The Associated Press didn't skimp by just saying "That is what one of the psychiatrists testified to," Ladies and Gentlemen. Associated Press carried the entire story, or the entire statement of Dr. Stubblefield, which contained that statement. It is there, and I will not be challenged on the fact that it was introduced in evidence in this case.

Ladies and Gentlemen, at the outset of this case Mr. Watts, the lawyer from Oklahoma City, stated to you, and I quote, "A Deputy Sheriff who will be here to testify will testify that at no time did Walker lead or participate in anything remotely approximating a charge."

That is a direct quote from Mr. Watts' opening statement to this Jury.

He also said, "The Associated Press deliberately smothered the testimony that Dr. Stubblefield's report showed [fol. 1812c] that Walker was of superior high intelligence." That is a direct quote.

I have answered that there is an exhibit here wherein the Associated Press published the entire Stubblefield report, and I will get down further to Mr. Watts' promise to you in the opening of this case, that he had a Deputy Sheriff who would be here to testify, and would testify that at no time did Walker participate in anything remotely approximating a charge.

Ladies and Gentlemen of the Jury, with this nine days of testimony in which there have been some thirty witnesses heard, including depositions, the case has now died down to three simple issues. One,—and I am paraphrasing—did Walker lead a charge?

Two, as to whether or not General Walker, by his actions and the reasonable inferences you draw based on the Court's definition, assume command over a crowd there on the campus of Ole Miss.

As to whether those statements are true.

Basically that is where the case now stands, and goes into your hands.

If I may, and I don't want to impose on this Jury, I would like if I may to review some of the testimony that has been [fol. 1812d] developed before you.

You cannot decide this case on the statement of lawyers, nor can you decide the case on the innuendoes the lawyers make and the inflection of their voices. All lawyers are advocates. It is their duty to present to you all the evidence

available in a way that it will be understood by all persons hearing the testimony.

Let's start out now, if I may, and I shall do my very best to stay within the record in this case as that is, of course, the way in which this matter must be determined, under the instructions of the Court.

[fol. 1813] General Walker, in November of 1961, after a distinguished career in the Army, having attained the rank of Major General, a position that not many men attain—it has to be attained on ability, on leadership study and you have to be a man of those attributes, in my opinion, to reach that high a standard in the Army of the United States—General Walker, for some reason, he explains it, he says, among others, he said, he resigned in November of 1961, and I quote him again, this is General Walker's testimony, "I resigned in order that I might speak out."

Now, I don't criticize in any way General Walker or any other man who says he has a right to speak out.

The Constitution of the United States says a man has a right to speak out. The Constitution refers to freedom of speech and freedom of press. I assume that's to what General Walker alluded.

Now, let's take step by step, though, if you will, please, and see if it was speaking, speaking out, that he was doing or whether there was another connotation, particularly—and I will confine myself now—to the Mississippi incident.

The evidence is quite clear that by September 25th, 1962, [fol. 1814] it was evident to everybody in the world that the highest Court having jurisdiction of this matter had said that Meredith was to be entered as a student at Ole Miss University.

The court had said so, an injunction had been granted against all of the officials of Mississippi and others having knowledge of that Court decree.

What do we find? We find General Walker—and this is his testimony, if you please—calling, as he said he did, a Shreveport radio station and issuing the following statement:

Now, this statement has to come to a listener in the concept of how the listener wants to receive it, but by the same token there are some words that have such a clear meaning that they could not be misunderstood by anybody.

Let's live again, if we will, or hear again a portion of General Walker's address that he asked the radio station over in Louisiana, Shreveport, to carry, his first sentence:

"It is time to move." Now, does "move" mean to anybody in the world that he is to talk?

If you can reach that connotation from that word "move", let's go further and see how General Walker, in his statement, interpreted it:

[fol. 1815] "We have talked, listened and been pushed around far too much by the anti-Christ Supreme Court. Rise."

Now, if there was any doubt in anybody's mind as to what General Walker meant when he said "move" he certainly clarified it in the following portion of his statement.

He goes on down, "Bring your flag, your tent and your skillet. It's time. Now or never. The time is when and if the President of the United States commits or uses any troops, Federal or State, in Mississippi."

I don't think that that needs too much argument as to the connotation to be placed on his statement when he invited the world at large to move.

[fol. 1816] But let's take and see if it calmed that down any. Here is an interview—oh, let's make this chronological. He spoke from Dallas on the next night and it was almost identical, when he said the same things:

"We have talked, listened and been pushed around far too much by the anti-Christ Supreme Court."

Then he goes on down to talk about the flags, the tents and the skillets. And then he's asked this question, and do you remember the TV tape on this, "General, if the forces go, would you lead this force?"

General Walker says, "When I introduced this," well, there is stars, there is pauses, so to fill up those pauses,

we play to you the full speech and the moving mouth of General Walker.

"General, if the forces go," inquired a reporter, "Will you lead this force?"

for patriotic Americans for patriotic Americans all over the nation. It is a movement of freedom. I will be there. Rise to stand. Now is the time to be heard. Thousands strong from every state in the Union, rally to the cause of freedom."

Again he says, "We have talked too much. Let's rise. Let's get along."

On the 28th of September—mind you, these follow in [fol. 1817] the sequence from September 25th, the day when Meredith was forcibly barred from the University of Mississippi by the Governor, or Lt. Governor Paul Johnson, under the orders of the Governor, all of which General Walker knew—he testified that he knew that.

He goes on to say in this interview, "Sir, what has been the general reactions to your plans of going to Mississippi with troops of citizens? I am sure you have heard from quite a few people throughout the United States."

General Walker, quoting, "We are just utterly swamped here with telephone calls and offers of help and assistance and notifications that people are moving to Mississippi and that they want to assist in every way possible, that they are opposed to what the Administration is doing in opposing the Governor of Mississippi.

"I can assure you that the telephones never stop ringing, calls are backed up six and eight deep. People are telling me it's taking five or six hours even to get into our telephone system and we have seven phones in the house.

"Messages are coming in offering support of groups of 10 to 20 to even 2,000."

[fol. 1818] "Interviewer: Do you have plans, sir, for rallies if and when the Federal troops are entered in Mississippi of a certain point in the State where all your followers will then meet with you to protect the integration, if it does comes about?"

"General Walker: I intend to join the movement. There are thousands of people I am sure already in Mississippi. Probably hundreds of thousands there that are already standing beside their Governor Barnett.

"The best place to do this would, of course, be the Capitol or at Oxford, at the University, since that is where the issues involved, and I am sure that is where most of the movements will move to, to show the grass roots in this movement."

Let's go a step further, if you will, please. That's Exhibit 12.

Down at Jackson, Mississippi, where he had gone on the 29th, after he had received a call, as testified from Mr. Leman, who was in Mississippi reviewing the situation for him, he has an interview at the Sun & Sands Motel. Here is what he said:

"I am in Mississippi beside Gov. Ross Barnett. I call for a national protest against the conspiracy from within. Rally to the cause of freedom in righteous indignation, [fol. 1819] violent vocal protest and bitter silence under the flag of Mississippi at the use of Federal troops."

He didn't stop at Federal troops. "This day is a disgrace to the nation in dire peril, a disgrace beyond the capacity of anyone except its enemies. This is the sovereignty of the crucifixion by the anti-Christ conspiracy by the Supreme Court in their denial of prayer and their betrayal of a nation."

That was from Jackson. This is still a part of this matter.

The next one, if you will, please, and I don't want to bore you, but to merely get this in context. This is the one that General Walker made from his home in Dallas around 9:00 o'clock, he testified, on September 30th, 1962, and again at the Ole Miss Motel that afternoon at his press conference when he said—and the heading of it, "On to Mississippi," here is what he said:

"As the Armed Forces of the New Frontier assemble to the north, let history be witness to the courage and deter-

mination that calls us to Oxford to support a courageous Governor. His lawful stand for state sovereignty is supported by thousands of people beyond the state borders [fol. 1820] now on the way to join you at Oxford."

Now, nobody sought out General Walker to issue this call after these orders had been confirmed on September the 25th. By General Walker's testimony, he called the various news media and suggested to them that he had something to say that was of vital interest to the people within the sound of his voice over the various news media.

At that time he was calling upon the news media, of which the Associated Press is one, to let the world know that he was on the move, that he was going to Mississippi, that he was going to join the movement, that he was going to stand behind Governor Ross Barnett.

[fol. 1821] He testifies in his own testimony that at the time he got to Mississippi, that at the time he got on the campus of Mississippi, that he still knew that Governor Barnett was opposing the entry of Meredith and that he had so far, or thus far, barred Meredith's entry into the campus of the University of Ole Mississippi by force.

General Walker, after he got to Mississippi—and let's take his version, not anybody else's—he calls on the Sheriff, and let's see what General Walker said:

"I tendered my services to Sheriff Ford."

At that time he testified that he knew that the National Guard of Mississippi, the police officers, the Constables and the Sheriffs were under the direct control of Governor Ross Barnett.

He testifies that he knew that those three governing bodies or law enforcement bodies had successfully, under the direction of Governor Barnett, barred the entrance of Meredith to the campus of the University of Ole Miss. He tenders his service to Sheriff Ford.

Now he has stated that he heard that there were troops in the vicinity. Yet, he was bound to admit, because of his training as a soldier, that troops in a matter such as this

could be called out only by the President of the United States.

[fol. 1822] He first testified—and I quote him correctly—that he didn't know for sure that Meredith was on the campus when he went there at the time the rioting was going on, on September 30th, 1962.

Yet he finally did admit, because he knew he had to, that he had been told by the representative of the Governor at the Sheriff's office around 6:00 o'clock that night, that Meredith was on the campus.

He was, also, told—and he admits that—he heard President Kennedy's speech that night, the very first of President Kennedy's speech, advising the nation that Meredith was on the campus at the University of Ole Miss.

So at that time, at that time, Ladies and Gentlemen, he knew that Meredith was in the residence on the campus of the University of Mississippi.

What did he do? He said he heard there was some trouble out there and he went out to see it as an observer.

Now Ladies and Gentlemen, let's see if he was an observer and let's see what his actions were and how he had contrasted his actions.

When General Walker was commanding the troops in Little Rock in 1957, at the Little Rock integration, he identified from this witness stand a speech he made there.

[fol. 1823] He refers to the question of integration. "This decision," I quote from General Walker's speech, "This decision by the highest court in the land is, of course, an authoritative interpretation of our Constitution. It is binding on all citizens and government officers, both State and Federal and may not under our law be changed except by amendment to the Constitution.

"What does all this mean to you students? You have often heard it said, no doubt, that the United States is a nation under law and not under men. This means that we are governed by laws properly decided upon by duly con-

stituted authority and not by the Decrees of one man or one class of men.

"Since this is true, it means that we are all subject to all the laws, whether we approve of them personally or not and as law-abiding citizens; have an obligation in conscience to obey them. There can be no exceptions.

"If it were otherwise, we would not be a strong nation but a mere unruly mob."

[fol. 1824] Let's take up next, if you will, please, what President Kennedy said on this same subject, and I think you will note a rather strong similarity. I quote from President Kennedy's speech that General Walker heard at the Mansion House Cafe, 8:00 o'clock on September the 30th, 1962:

"Americans are free, in short, to disagree with any law, but not to disobey it. For in a Government of laws and Government of men, no man, however prominent or powerful, and no mob, however unruly or boisterous, is entitled to defy a Court of Law.

"If this country should ever reach the point where any man or group of men by force or threat of force could long defy the commands of our Courts and Constitution, then no law would stand free from doubt, no Judge would be sure of his Writ and no citizen would be safe from his neighbors."

Now, Ladies and Gentlemen, it was with that speech of the President which is very closely similar to the one that General Walker made in Little Rock, Arkansas, in 1957, to which General Walker gave utterance, according to his testimony, "nauseating, nauseating."

At about that time he says that he heard of this trouble on the campus, he went out to see. Did he go out to see? [fol. 1825] Ladies and Gentlemen, he testified that he got on the campus, that he asked or sought what was going on. The testimony shows that he was informed that it had been going on in a riotous manner for about an hour.

He was asked in connection with casualties what he said, one witness said he said, "Good, good." He said he does not know whether he said that or not. That's his testimony.

We find, then, according to General Walker's testimony, reluctant though it was, that he did go toward the Marshals with a group.

The testimony on that varies from anywhere from five to six, according to the witnesses, to fifteen to twenty-five to fifty to seventy-five and on up to the astronomical figure of a thousand. I don't know. I wasn't there.

The witnesses have testified, though, without any conflict on those that saw General Walker that he made a movement toward the Marshals that night, before he made his speech in which some number of followers went with him.

Now, let's see what this Deputy Sheriff that Mr. Watts so dramatically portrayed says. He says "The Deputy Sheriff who will be here to testify, will testify at no time. [fol. 1826] did Walker lead or participate in anything remotely approximating a charge." This Deputy Sheriff whom he identified in his pleadings, a man by the name of Witt.

And I take some of this statement, in getting at the pertinent parts:

"Somewhere along during this time, it seemed that all of the State Highway Patrolmen left the campus, as did also some of the law officers, that is, Sheriffs or Deputy Sheriffs, but I stayed on to render any assistance that I could.

"Sometime around 8:00 o'clock or a little later, I began to hear different ones say, 'Here comes General Walker.'"

I did not know him prior to that time. And when I first saw him, he was walking toward the Confederate monument, which was several hundred yards in an easterly direction from the Marshals at the Lyceum Building.

"People in the crowd around General Walker began to say different things. Several of them began to say 'We have got a leader now,' or 'Here is our leader.'"

"I had on my deputy sheriff's badge and shortly after General Walker arrived in the territory of the Confederate [fol. 1827] monument, he came up to me, shook hands and said, 'I would like for you to deputize me, to help in this matter.' I told him I did not have authority to do that, that I was a Deputy Sheriff, was not a Deputy in that county.

[fol. 1828] Let's pause right there a moment. Earlier in the day, General Walker had tendered his services to Sheriff Ford. At that time Sheriff Ford, according to General Walker, was under the orders of Governor Ross Barnett, to keep Meredith from becoming a student on the campus of Ole Mississippi. In his speech that night, and you will all recall that, he told them that Barnett had not sold them out, that Birdsong had acted contrary to his wishes and to his orders and had let the Marshals on the campus and, therefore, was disobeying the wishes of Governor Barnett.

General Walker now says that that was facetious. That's the first time we have heard that. The Deputy Sheriff was dead serious, apparently, from what he's testified to.

Let's go on with Talmage Wiff, the Deputy Sheriff. "I was close to General Walker all the time, from the time he first arrived until a considerable time thereafter.

"Some few minutes after this, various people were asking General Walker to lead them and to make a speech and tell them what to do. Then after a while, he got up on the side of the Confederate monument and made a talk.

"I cannot recall all of the things he said, but I do re- [fol. 1829] member these things: 'Violence is not the answer. Cuba is that way,' and pointed south. He said, 'Protest, protest all you want to. You have a right to protest. They may run out of gas.' He said, 'Help is on the way, thousands are coming.'"

Does that ring true with the statement, when he asked thousands to come, ten thousand from every state to join him, to stand beside Governor Ross Barnett in Mississippi?

"A preacher had been following General Walker," again quoting from the witness, "asking him not to lead the crowd but to get them to stop what they were doing. This preacher said to Walker, 'They will listen to you and do anything you say. Please get them to stop and go home.'"

That's pretty nearly what Reverend Gray testified to.

"And Walker said, 'I am here to watch what happens. I am not interested in stopping it.'"

A portion of that was confirmed by Reverend Gray.

"Walker said, 'You make me ashamed I am an Episcopalian.'" And talks about the threats to the preacher and he took him away.

"After some in the crowd had asked Walker if he would lead them, he stepped down from the side of the monument [fol. 1830] and said, 'Keep protesting and see if we can get closer. . . .'"

"He then started towards the Marshals and the crowd of at least a thousand by that time followed him. This crowd was armed with sticks, rocks, Coca-Cola bottles and things as I have heretofore said. They seemed to have everything they could get their hands on. And when they got close enough, they would throw towards the Marshals.

"When the front of this crowd which General Walker was with got within about 200 feet of the Marshals, they fired another blast of tear gas and the crowd ran back with General Walker with them."

At all times during this, I was near or in sight of General Walker and stayed in sight of him until 5:00 a.m., the next morning.

"On a number of occasions, Walker would walk toward the Marshals or in that general direction and whenever he did, a large crowd would follow—would fall in behind him and follow him. In fact, wherever Walker went, the crowd followed.

"During the time after the first march towards the Marshals with Walker at or near the lead, I heard different statements, many of which I cannot remember. But at

one time in talking with the group about the protest they [fol. 1831] were making, he said, 'Good, good, keep it up.'

"I heard people asking how to snuff out tear gas and so forth."

He goes on to describe the various rioting that he saw there that night. Now let's see just what must have been in the minds of those people, students, or what-not, at the time General Walker arrived on that campus, according to his testimony, around 8:45 p.m., on September the 30th, 1962.

Here was a group of howling, mobbing students.

[fol. 1832] General Walker was immediately informed of what was going on. He could see, and he tells you he saw that they were rioting, there were bricks being thrown at the Marshals. What does he do? Let's take a look at the situation, from the people that he accosted there on the campus there that night. These boys were of an impressionable age. If they were not students, so they were Walker's Army. These boys on the campus, 17, 18, 19 and 20-year-old boys, wrought up about this thing, they felt very strongly because their Governor had been challenged. They felt that they had been let down. What a beautiful position for a man to take command over the crowd, to walk in, a former Major-General of the United States Army, who had announced publicly on four occasions that he was coming to Mississippi to stand beside Governor Ross Barnett and prevent the entry of Meredith into the University of Ole Miss, what a thing to—what a lift it would have made, what a lift it would make to anybody to have a man of that stature stride on the campus, an imposing figure in the midst of riot and turmoil.

He says they didn't welcome him. Yet he admits to all persons concerned they said, "Here is our leader. Our leader, lead us," said, "will you lead us up to the steps"? He says he didn't. Let's take his action.

[fol. 1833] He says he went up there with the group. He knew that they were throwing rocks, bricks, stones and

bottles at the Marshals. What more encouragement to the group of this impressionable age, than to have the man of the stature of General Walker walk in there amidst them, discuss their problems with them, and then tell them to keep on protesting, keep up the protest, you have every right to protest under the Constitution of the United States. If there is going to be any bloodshed let it be on the hands of the United States Marshals. We have got casualties. You will be heard around the world.

I can't think of any more inviting statement than for a man of that stature to walk on that campus with that group, cast himself in the role, haven't I promised them support, and at that time, the witnesses, some of them, say that he answered, in response, "Where are your troops?"

"They are coming; they will be around when necessary."

As to whether or not they were students or not, I don't know. I can't prove it, I can't attempt to prove that they were General Walker's students, but there is testimony in this case by Dean Love that 160 were arrested and of that [fol. 1834] group 25 were students. Mathematically, you can figure that only 17 percent of those arrested were students. I am not trying to project that over the entire campus. There is no way of knowing that, but statistically that is what it shows. We do not—we do know, according to Dean Love, that there was rifle fire, bullets whistling around the heads of some people. We know that a number—I believe Dean Love said 10 or 11 bullet holes were imbedded in the front of that Lyceum Building. We have General Walker's statement that what he said from the monument—I would like to quote that, if you please.

General Walker said—here is General Walker's quote. "I decided to make a speech to about 150 students at the monument."

Now mind you, Ladies and Gentlemen of the jury, the Court has not made inquiry in this matter as to whether or not the charge was before the speech or after the speech. It says was the charge made?

Therefore, under the Court's charge, it is whether or not in your opinion, according to the evidence, the charge was led by General Walker.

You heard him say that—this is what General Walker said, that nobody came to Mississippi for violence, that no violence was intended. Now how does that contrast with [fol. 1835] some of the statements of some of the witnesses attempting to testify on General Walker's behalf that no violence—that there should be no violence, that they should not engage in violence.

Now these are General Walker's words. This is the past tense. No violence was intended. Yet at the very time he was making this statement about no violence intended, the rocks were being thrown, the gas was being shot, and the various activities you heard so graphically described that have been laid out before you were going on. Let's see what else. "If there is any blood shed in Mississippi, or Oxford, let it be on the hands of the Federal Government. Cuba that way." He says he told them, and this is where he says he was trying to appease them, he told them that the "Governor's orders and his desires have not been carried out."

He says who violated them? He leaned over, and he said, "Birdsong."

Now, Ladies and Gentlemen, is it conducive to quieting down a rioting mob to tell them that the Governor's orders that Meredith was not on the campus, that Meredith still shouldn't be there, that Governor Barnett was saying even at that moment, according to General Walker, "It is my order and desire that those Marshals and Meredith not [fol. 1836] come on that campus. The man who sold you out is Col. Birdsong."

I can't imagine any more of a call to arms than to tell those students who had been supporting their Governor Barnett throughout all this time, who had backed him in every way, to keep Meredith out of that University, than to tell them "Barnett says still keep him out; still keep him out."

General Walker says Barnett has not changed his position. He has not sold you out. It is Birdsong.

Now we get down to the conflicting testimony in this case. Not too much conflict. I am not going to try to quote from the testimony of these some 30 witnesses who testified here personally, or by deposition, but at least three-fourths of them told you that all that they saw on the campus that night, they put General Walker walking in the direction anywhere from a saunter to a fast clip from the monument toward the flagpole and beyond, followed by a group of that howling mob.

The Court has not differentiated, if you will notice, between the time that the Charge was made. The Court has defined very properly what a charge is, "a movement toward the Marshals," and they had the General ahead of them, and we had witness after witness putting him there. [fol. 1837] The numbers have varied, but the movement has not varied materially.

Now, Ladies and Gentlemen, again, this case is entirely in your hands. You are the Supreme Court as far as the facts in this case are concerned. You can write in this verdict that a man has the right to take unto himself the law in his own hands; you can write in this verdict the man has the right to flaunt Constitutional authority, flaunt the Courts, by a one-man rule, or you can say that is not the way, the American way in this life to act.

Mr. Andress has told you that in connection with these questions—but before I get to that, many, many times Mr. Watts questioned the witness, "Did you see an AP (sic) report, in which it stated an AP (sic) writer by the name of Kuettner had written a story in which he said Walker begged the students to quit their violence or cease their violence during a lull."

No such newspaper release has been introduced in this record. Just before we closed today we put in this record the UPI story he says Kuettner wrote.

I may have said Associated Press. I meant UPI.

No UPI report purporting to say what he said it said is in evidence in this case. The UPI report says that Walker mounted the statue (sic) I never can pronounce [fol. 1838] that word statue, and said something about violence. I will read it to you. I can't quote it. Then he comes along and says in a paragraph down here that General Walker again mounted the statue and complimented the students on what they were doing that night.

Which are you going to believe? Going to believe both? General Walker says no violence was intended. That is General Walker's statement. Is that urging people to cease their violence? My interpolation of that, and I am entitled to interpolate what I hear the same as you, he says, "Perhaps we shouldn't have had any violence, we didn't intend there to be any, but now that you have got it keep it up, keep it up, you have got a right to protest. Keep up your protest, you are doing all right, you will be heard, let the blood be on the hands of the Federal Government."

As I stated at the outset, I shall not attempt to re-read the vivid instructions that the Court has given you. The first issue inquires whether or not in substance the story stating that General Walker led a charge was true.

I believe that under the evidence in this case that you will find that the true answer to that story is "Yes."

Number 2, as to whether or not the statement that General Walker led the Marshals, (sic) on the campus—or led a charge against the Marshals is a fair comment. I believe that under the evidence that you certainly should answer that question yes.

The next question is whether or not the statements were made in good faith. I don't see how you can answer it any way other than yes, in that connection.

Now Mr. Andress criticized this 21 or 22-year old boy. Mr. Watts took his deposition all day, which is rather evident. He would seem to think that nobody but a middle-aged man should be allowed to express himself on any matters of important news coverage.

Let's back up just a moment and consider that. Here is General Walker, who according to his testimony, is somewhere around 52, 53 or 54. Let's take his action. Let's take his report. Is youth so bad that youth cannot see and understand the nature and import of an event that unfurls itself in his very presence? I say to you youth is not—is no curse. It is something we all lose after time comes, and something we treasure greatly, and I have great respect for the youth of this country.

Number 5. Did you find from a preponderance of the evidence that Walker assumed command of the crowd?

How much more could a man do of Walker's stature, [fol. 1840] a retired Major-General in the United States Army, after having called four times for people to come to Oxford to assist him in keeping Meredith out of the University of Mississippi, getting on that campus, and there were those rioters. "You are doing all right, keep up the protest."

There is testimony, he said, "I will lead you."

There is testimony "Let's go up and see what is happening." How? Regardless of what he said. I would say at least 15 of the witnesses have testified that Walker went with a howling mob from an area near the statue on the campus of Ole Miss, up, some of them said he didn't get quite all the way to the flagpole, some of them said he got to the flagpole, and some said that he got way up here, but they all said that when General Walker walked in that direction that mob of students, regardless of how many were in it; that the tear gas was shot by the Marshals, and the crowd was forced to retreat.

Now Ladies and Gentlemen, I am reasonably sure, having had some experience in these matters, that long since you have come to a conclusion about how you feel about this entire matter. I am reasonably sure you feel the lawyers are taking up your valuable time in attempting to stand here and tell you their version of the case. I sincerely hope not, because I think you should do

as you see fit, based on the evidence, with any guidance the lawyers can give you, of course, is what they are for as is the Court.

The Court told you here about malice. Well, who was mad? Ill will? Here is a man that has acquired the stature of Major-General of the United States. He has called in the press. He says, "Tell the world what my plans are, to go to Mississippi. Tell the world, and I will tell the world, come on, bring your flags, your tents and your skilletts."

He testified very truthfully he knew his going to Mississippi and to the campus would create publicity. Why else would he call in the news media and ask for these volunteers to come join him there? Why, Ladies and Gentlemen, he hadn't but one purpose in the world, to advertise his going, to seek help to his cause, and to attempt to carry out the directive of Governor Ross Barnett. Let's stop right there a moment.

He testified he let Governor Barnett know where he was, but he says he never was contacted by Governor Barnett. Then he makes the call, "On to Oxford from Jackson." I take that as commanding these hoards that he had sought to come. He says, "Don't go to Jackson as we first planned [fol. 1842] the action—the action is all at Oxford. Come on over to Oxford; on to Oxford; on to Mississippi."

Who could have been mad? Not a question of being mad. A citizen of the prominence of General Walker, who according to his testimony has made speeches throughout the length and breadth of the land—incidentally, he testified there had been a constant demand on his time for speeches from the time he resigned in November, 1961, and that there had been no lessening of that since the Mississippi incident—here is a man who offered himself as a candidate for Governor of the State of Texas, in which he had every right in the world to exercise his views, and I don't criticize that.

I am reminded somewhat of the philosopher Voltaire's statement. I am sure you have all read it, when he stated

with respect to a controversy—I believe these were his words, “Sir, I do not agree with the words you have said here tonight but I will defend with my life your right to say them.”

That, in effect, is what the Constitution of the United States says. You can say whatever you please if you can find a forum to listen. General Walker testified he has been able to find listeners, both from the podium and through the media. He says he has no trouble getting press releases. A man of that stature who would call for [fol. 1843] volunteers, who would go and get himself mixed up with the stature that he had in a situation like that, telling the students, “Keep on protesting, your Governor is still behind you, he has not sold you out”—how much more of an incentive would these students want than to be told by a man of that stature, a man of that public action, “Here I am to help you, keep on protesting, you have got a right to protest. Let’s go there, let’s go up there.”

Is there any malice? Is anybody mad? Why, Ladies and Gentlemen, that is the very purpose he went there for, was to get publicity to his avowed purpose of standing shoulder to shoulder with Governor Ross Barnett in defying the orders of the Federal Court and the Constitutional authorities.

Now he has said repeatedly that he only intended to go on that campus to do anything about this matter when Federal troops were used. By his own statement he knew when he went on the campus that night that there were no Federal troops on that campus, and all of his testimony is that Federal troops were not brought on that campus until such time as the Marshals had been almost completely exhausted; that the troops did not come in until about midnight. So his excuse that he was going to take part in [fol. 1844] this matter when and if troops were used is not valid, because he knows and he testified the troops cannot be called in that situation except by order of the President,

and that order shows that no troops was issued (sic) until September 30, 1962.

Malice? Reports? Ladies and Gentlemen of the Jury, this is my firm conviction, based on the evidence and not from a biased standpoint, that the evidence almost without exception shows that General Walker led a charge towards the Marshals there on that campus that night, and that by his actions he commanded the crowd, by voice, by his statements and by his injunction, "Keep up the protest, you have a right to protest."

Ladies and Gentlemen of the Jury, I believe that you will find from a preponderance of the evidence that the story printed by the Associated Press and carried in the Star Telegram was true, substantially true, as the Court defines it. That Walker assumed command of the crowd, as proven by virtue of his speech, by virtue of his taking out and being followed by this massive group that went forward. I don't believe you can say any malice was there.

The way a man stays prominent in public life is to have [fol. 1845] his activities reported by the press. The press owes it to the public to see to it that the activities of public officials are published, or revealed as to their actions to the general public. I don't believe that you can find that any malice occurred. I believe you will find, I sincerely believe these statements as made were true.

Again I address myself, because Mr. Andress made such a point—it was not a question in this case of what Savell has said, or—although he testified fully by deposition. At the very outset of this case the Associated Press stood before you and said, "We stipulate that this story that appeared in the Star Telegram on October 1st, 1962, was the story written by Van Savell. Van Savell was an employee of the Associated Press. And that is the story on which we are trying this case, as to whether the facts as stated therein are true and correct. I don't know what it gives you to bring in a man, even though he was brought to them for all the questions they wanted to ask, and I

knew every one of the questions asked in the Savell deposition was by Plaintiff's counsel in this case. Not one question was asked by the Defense Counsel. They tendered them and turned it over to them to ask anything in the world they wanted to.

[fol. 1846] So the story, in my opinion, based on the evidence, is true. I appreciate your kind attention, you have been a most attentive jury. I am confident to leave this matter in your hands. I thank you.

The Court: I am going to recess until 10 minutes until 4:00.

(Short recess was had.)

[fol. 1847] The Court: All right, Mr. Watts.

ARGUMENT OF PLAINTIFF BY MR. WATTS

Mr. Watts: Your Honor, Ladies and Gentlemen, anything for a story. Anything for a story.

To me, the tragedy of ~~this~~ lawsuit is the ruthless and cold-blooded manner in which an organization that extends its services around the world will mis-use the talents and the concepts of veracity of young men twenty, twenty-one, twenty-two will bring them into a Court of Justice and Law, some of them, and tell conflicting stories such as were tragically produced from this witness stand in a manner such as I have never seen in more than thirty years of the practice of law.

We appear before you Ladies and Gentlemen of the Jury in a solemn hour, facing an ominous and uncertain future for the lives of our country, our children and, above all, the cause of freedom.

The parties to this lawsuit, General Walker and the Associated Press, anxiously await your verdict in this case.

But the issues, Ladies and Gentlemen, now before you and about to be decided by you are far above and beyond, far bigger than the parties to this action, bigger than General

Walker, bigger than even the Associated Press, bigger than [fol. 1848] myself, bigger than even Mr. Gooch.

They involve the question of the absolute survival of this country. While Mr. Gooch was speaking, I sat down and made notes of some of the principles that are involved in this lawsuit.

They go to the very essence of Americanism, of survival, of freedom, not only of America but of Christian civilization itself.

This is what's involved in this case: It's not a question of covering the issues with a smoke screen as Mr. Gooch has so cleverly done, as he has so capably shifted the question of the truth or the falsity of the statement that was printed under the authority of the Associated Press.

Here are the issues involved:

"Know the truth and the truth shall make you free."

Now, the American people, my friends, are dependent, as dependent upon the news service of this country for their knowledge and concepts of the truth as is a nursing baby upon his mother.

And when standards of integrity and irresponsibility, such as I have seen come from the witness stand produced by the Associated Press in this case, are taken as commonplace, by the people who have not only the power and the [fol. 1849] capability to shape the lives and the public image of their human beings, but have a sacred trust to the American people to produce the truth, the whole truth and nothing but the truth.

Now, the issue in this case is not, did General Walker defy a Court order—which I will guarantee you a man of his caliber did not even consider. The issue in this case, Ladies and Gentlemen, is "Who told the truth?" I'll get into that with you in just a few minutes.

Now, the next problem that we have before us, "Thou shalt not bear false witness against thy neighbor." Thou shalt, Associated Press, maintain and carry forward your duty, your responsibility, your sacred trust to the American people, to avoid smearing as a lunatic and an insurrectionist—

Mr. Gooch: If the Court please, there is no testimony in this case of smearing as a lunatic.

The Court: Sustained.

Mr. Watts: We are entitled to relative comments.

The Court: Sustained.

Mr. Gooch: Move the Jury be instructed not to consider it.

Mr. Watts: To smear, if Your Honor please—

The Court: I sustained that.

[fol. 1850] Mr. Watts: Is that charged against me?

The Court: No.

Mr. Watts: To smear, if Your Honor please, and Ladies and Gentlemen of the Jury, an old friend of mine, a man whose concepts of duty, honor, country, reach a sublime plane of selfless devotion, a man who, for the greater part of his adult life, has lived above and beyond the call of duty in the defense of the country for which he would gladly give his life.

If he had the capability to roll back the sands of time and reverse the trend of this great country of ours from supreme greatness to the brink of disaster that has resulted in the last nineteen years, largely from as a direct and proximate result of things that we have seen, from this witness stand, Ted Walker, I'll guarantee you, would gladly give his life. We have here the kind of a man who will come into Court and under oath—he's got enough guts to come in here and look you Ladies and Gentlemen of the Jury in the eye—if you think he's lying—and that's the sole question in this case, is Ted Walker lying when he tells you that he did not lead a charge against those Marshals at the University of Mississippi? Or is this absent witness, Van H. [fol. 1851] Savell, indulging in anything for a story? As tragically did this young lad, Hill, who came in here and made the most miserable, the most obviously distorted and twisted, fabricated presentation of an alleged state of facts that I have ever seen in thirty-two years of practicing law, as did this last poor lad whom they brought in here, took

him out in the hall, contrary to the advice and admonition that was given to him, and said, "Say, you are getting your time all mixed up. Get back on that witness stand and tell a different story."

Now, Ladies and Gentlemen of the Jury, is that the concept of integrity? Is that the concept of truth, honor, responsibility? Let an organization such as the Associated Press, who has within their capability to make fools or criminals of everybody in the United States, is that the type of performance that they can come into this Court and ask you to condone?

Are you going to permit them to come in and shift the issues in this lawsuit from questions that are not involved to—and away from the question of who told the truth?

Now, the next issue involved: "He who steals my purse, steals trash. But he who steals my good name steals that [fol. 1852] which enricheth him not and makes me poor indeed."

We have General Walker here converted into a stupid, alleged leader, in the words of Mr. Relman Morin—Mr. Relman Morin, a very capable, widely experienced representative of the Associated Press, who says that Walker's on the opposite side here. He came to lead tens of thousands of volunteers to aid the cause of Gov. Ross Barnett, but his only troops last night were a band of students and other persons—a performance, which if true, as was stated by his old Army buddy, an old horseman, Colonel Dornblaser, made him appear absolutely a lunatic, if that were true.

Now, the question, Ladies and Gentlemen of the Jury, is it true? And as I pointed out to you, there is an unbelievable conflict, there is a conflict, the likes of which I have never seen in a Court of Justice and law, and finally when we get to Courts of Justice and Law, the last and final principle now before you, Ladies and Gentlemen of the Jury, is this:

It is the end of justice that no one shall suffer wrong. Now, the question in this case is, have these people given [fol. 1853] General Walker what he deserves? Or have they

lied about him? This is stark reality. We are dealing with simple issues—truth and falsity, to lie or not to lie.

I have heard General Walker as of the time when he was just a Colonel, as of the time of Korea, come forward with a concept that we must now fight for the right to fight.

In this case, Ladies and Gentlemen of the Jury, under the technical guise of fair comment, the Associated Press is fighting for the right to lie.

They have come in to Court and told you a fantastic state of affairs and a story that General Walker strode down University Boulevard, met the leaders of the mob in the front of the statue, assumed command and with a thousand people behind him, ran roughshod in a charge across the Circle.

Either that happened or it didn't happen. Either it's the truth or a lie.

Now, there is no middleway between it. It's not a falsehood, it's not a mistake, it's not an error—either it's a deliberately fabricated lie that destroyed the reputation of General Walker as a man, a law-abiding citizen of integrity and responsibility or it is the truth. I don't believe it is the truth. I don't believe it's the truth.

[fol. 1854] I think General Walker tells you the truth when he said he came up the sidewalk—not the street—he walked up in this area here about halfway to the flagpole and observed what was going on. After the Highway Patrol left, he made a speech on the monument, which I don't have time to repeat. You know what it is almost verbatim.

After the speech on the monument, he got down, visited around in here for a while, shook hands with a lot of people, talked to them, heard their reports and in many reports—this is typical and symbolic of the depths to which people will go to try to smear a man, they said Ted came out here and said, "Riot, riot."

I'm sure you've heard and I'm sure you followed the very clever cross examination of my colleague, I'm sure you heard General Walker in his testimony say, "Right, right;" that's a very common expression of his and I don't

believe that bird that wrote it down converted "right" to "riot" in good faith. I think it's just like all the rest of this stuff that the Associated Press is bringing into this court of justice and law to confuse and cover up and hide the real issue in the lawsuit.

Now, what is the real issue? Ladies and Gentlemen of [fol. 1855] the Jury, I have never before seen evidence in a lawsuit comparable to what we have here. We are trying not one lawsuit but three. We are trying not one charge, such as Van Savell reported, that Walker came on the campus, led the leaders—met the leaders of the mob, assumed command and led a charge, then he fell back to the monument, made a speech—that's what Van Savell reported, but that's not the lawsuit we are trying. They very cleverly endeavored to shift that from their lawsuit to something they think they can prove.

We have three lawsuits. All of them under oath. Now, the question is, who is telling the truth and when.

There is an old Latin maxim I learned when I first started out in law school: "Falsus en uno falsus en omnis." That means when a guy lies once, you can't believe anything he says.

Now, let's see what they say. Charge—the charge was before the speech. Van Savell—I just hope I have time to do this, but I am going to violate all principles of giving cases to the Jury because Ladies and Gentlemen, to me this is not an argument, this is a matter of principle.

I am going to cover here briefly some of the things that [fol. 1856] Van Savell said. "Then I heard a comment behind me to the general effect and I don't remember the exact wording, 'Here is General Walker, here comes General Walker,' and I turned and I saw striding fifteen yards behind me, General Walker," and I hate to have to go fast but I have got to do it.

"On which side of the road?

"More or less in the middle.

"He stood there looking around and I moved closer. I was probably within five or six feet of him, and this same person with the Confederate flag and multi-colored shirt, mostly red, said, 'General, will you lead us to the steps,' and Mr. Walker made no comment, he sort of scratched his head . . . looked like somebody who might be thinking . . . raised his head and looked this fellow squarely in the face and nodded his head.

"At this time were there any personnel west of the monument?

"West of the monument, I didn't see anyone . . .

"Had all the crowd then moved back into the street east of the monument?

"That's my understanding.

"They were walking due west—no, as you were."

[fol. 1857] "The group backed up or away from the front of Mr. Walker and this boy took his right hand and grabbed hold of the General's left arm, and another person on the other side did the same thing."

A fantastic state of report and something that you know, I know, and Mr. Gooch knows didn't happen.

He can sit there and grin and smirk all he wants to but it didn't happen, Ladies and Gentlemen of the Jury, and he knows it didn't happen.

" . . . they were walking due west, they walked around the monument . . . to the north of the monument, and then they walked straight toward the Lyceum Building for ten or fifteen yards.

"On the sidewalk or on the grass?

"On the grass.

"North or south of the walk?

"North of the walk.

Question: "At what rate of speed?

"Normal.

"After Walker went ten or fifteen yards, they sort of veered to the right . . . in more of a northwesterly direction.

"We walked for about ten or fifteen yards . . . veered to the right . . . in a circular manner . . . bordering on the Circle.

[fol. 1858] "Twenty-five feet from the Circle . . . until they were almost even with the flagpole . . . then veered back toward the center of the Circle.

"But they went toward the sidewalk, didn't reach it, and then turned directly toward the Marshals. At this time Walker and the two fellows that had hold of his arms were between the sidewalk or almost even with the sidewalk and street."

Then, "Now, did this young man who took hold of Walker's arm take a position just east of the monument, or not releasing his arm until he reached the position of W-2," which, you remember, is way west of the north and south walk.

"He didn't release his arm.

"What about the man on the left, was he holding onto Walker's arm, too?

"Yes.

"Then what happened?

"There were about seventy or seventy-five yards from the Lyceum, then this tremendous group that was behind them—

"Where was Walker and these two other men at the time these bricks and things were thrown?

"At the very front . . .

"Mr. Walker turned and sort of ducked down, like this, [fol. 1859] and took off running . . . directly to the east.

"I didn't see him after he ran three or four steps, until I was back down at the monument.

"I heard him make some remarks about, 'Well, we'll get together and charge again . . .

"Now, was this down at the monument?

"He was still running, or wasn't running at this time, more or less walking fast or trotting, but out of breath, appeared to be, and I was out of breath and he didn't

make any comment to anyone in particular, just made the comment.

"Now, where is the last recollection you had of Walker, when he said we will charge again?

"In the area of the monument. As soon as he made this comment, I turned and ran to a 'phone."

Now, I'll guarantee you, the little plump sucker ran, from here to LeBauve Hall, 600 yards, Ladies and Gentlemen, and then he raced back.

In his story that he wrote, he said that when he raced back—and I ask you to read it, I don't have time to read it to you, but in this rotten, libelous, filthy publication that they wrote about Ted Walker, he said, when he raced back, he found Walker talking to people near the monument. [fol. 1860] But, in his testimony here, he said he found Walker on the monument speaking.

"As soon as he made the comment, I turned and ran to a 'phone. I ran directly north or a little to the northwest of the monument and I ran between the YWCA and I think the Fine Arts Building, ran near the girls dormitory.

"Did you make a telephone report there?

"Yes, I did."

And I don't have time to read any more. I wish I could read it all because I want to read you the fantastic conflict between that man's testimony and the testimony of the Associated Press, Mr. Ken Davis' number one back there—there sits Mr. Davis, the man under his control that's supposed to preserve, protect and disseminate the truth to the people of the United States of America, here is what he said that Savell reported—

[fol. 1861] He says that Savell reported, "Walker talked to the students, led them on a charge against the Marshals. . . ."

Mr. Gooch: I object to that, if the Court please, once more. Mr. Ken Davis didn't testify in this case.

Mr. Watts: I didn't say he testified.

Mr. Gooch: You just got through saying—

Mr. Watts: I didn't say he testified.

The Court: Go ahead and read from the deposition.

Mr. Watts: That's right. "Walker had talked to the students, had led them on a charge against the Marshals..." You can tell when people were getting hurt—yes, sir, walked to the front of the charge, led it against the Marshals. Since I was not actually writing any of the material that he was reporting . . . and so forth and so on, didn't take notes. I remember talking to him; no more than 10 or 15 feet from me. Told him Walker had just led a charge."

"Q. Now then whether this Savell—"maybe I'd better go back and tie him in, because I don't want Mr. Gooch to think I am not tying him in—talking here about Savell's report.

"Now he then approached you on this occasion, when he first reported that Walker had led the charge, that Walker had made a speech from the monument, and that speech seemed to give the boys more organization, and [fol. 1862] then after the speech he led the charge."

Now you see why they didn't bring in Van Savell, because Van Savell's news report, his deposition said that Walker came on the campus, led the charge before the speech, but when he reported to Mr. Ben Thomas he said he reported that Walker led the charge after the speech.

Now let's see who else says something about this. We have the lad, John C. Hill; who came up with a fantastic story that Walker led all this—formed up a charge out in here, and then led it northwest, and northeast and northwest quadrants. And you know what I think about this thing? I don't think Savell saw any charges at all. I think he was hid out here somewhere. I think he reported Walker had been on the campus and the charge, and then when Mr. Relman Morin in the deposition, asked him for a first person report he got a chance for a byline, a chance to really make some individual hay. He then wrote this story which I think came not from Savell, but I think a reason-

able inference from the evidence is that it came from John C. Hill.

Well, do you think for a minute that this charge that Savell had reported, and that this news that the Associated Press spread around the world concerning General Walker [fol. 1863] was true? These are the people that say it wasn't true. Ben Thomas, whose deposition I have just read. Buckley, who says that the charge, the so-called charge, as he called it, occurred after the speech on the monument. I wish I had time to pay my respects to Mr. Buckley.

Mr. Alan, the young man—I am sure you remember him, another news hawk. You can see how much responsibility, how much integrity, how much regard he had for the truth. He was the fancy young lad here with the very sneering self-satisfied manner that testified yesterday. You saw him. Then Mr. Proehl, the rather plump lad who also testified the charge occurred not before the speech but after the speech.

Reverend Gray, and incidentally my friends and Ladies and Gentlemen of the Jury, if this charge that Savell and Hill reported had taken place, they would have run right through the Reverend Gray. Reverend Gray was all out in this area all the time that charge was supposed to have been made. It could not have been made without mowing down Reverend Gray. So Reverend Gray says that he saw no charge there by Walker, nor any major charge before the speech.

Now the Witness Brittingham, whose deposition Mr. Gooch read, said the same thing. [fol. 1864] But now they are not satisfied with two stories, they came up with three.

It just occurred to me just this second how they came up with three, how they happened to come up with three. They have got three sets of lawyers. They have got lawyers in Fort Worth; they have got lawyers in Mississippi, and they have got lawyers in New York. So naturally when Mr. Gooch put on this witness, Gregory, yesterday, you heard him, the most miserable pitiful, despicable per-

formance I have ever seen on the witness stand, after he had been advised and cautioned not to talk to anybody in the hall, he went out and proceeded to come—he went out and was immediately contacted by the Mississippi lawyer and said, "Say, you are fouling up your time."

But by that time we had him caught. He came back in and said that the charge didn't occur before the speech as Savell had testified, it didn't occur after the speech, as all these other people had testified, but it occurred in between the conference with Reverend Duncan Gray down in this area right here, and Walker's speech on the monument.

So there are three separate complete, conflicting detailed stories presented to this Court of Justice and Law and this Jury under oath by the greatest news service on the [fol. 1865] face of the earth, asking you to believe it.

. . .

[fol. 1866] Now, the question is, Ladies and Gentlemen, not why General Walker went to Mississippi. I will cover that in just a minute. But the question is who is telling the truth. That is the question that you Ladies and Gentlemen are to decide by when you write your verdict in this case. If you approve of the standard of integrity that the greatest news service on the face of the earth has imposed upon young lads who look upon the executives of this great organization literally as God, then cut General Walker off and say you got what you deserved. But, if you think that kind of a standard of conduct is not proper, if you think that a great news service such as this should have a greater regard, a greater respect, a greater feeling of the sacred trust for truth in the news, then you write a verdict, Ladies and Gentlemen of the Jury in this case that will adequately—I don't think you can adequately compensate General Walker. I don't think there is enough money in the world to compensate this man here for the ridicule and complete destruction of his good name, but you write a verdict that will say to the Associated Press, "We don't condone of and we don't approve of this kind of a performance by the

greatest news media on earth upon whom we are dependent [fol. 1867] for the truth."

You are just like the old saying as it used to go, "Caesar is wise." You must be not only above wrong, but you must be above and beyond a third degree of suspicion of wrong.

Now, they should come in here, in this court as I know Ted Walker would do if he had any feeling of guilt of the criminal offenses with which they charged him, he would square back his shoulders, he would sit there on that witness stand and under oath he would say, "I did it." All we ask is the same standard of integrity on the part of the Associated Press. All we ask one story, not three. We are entitled to it. You Ladies and Gentlemen of the Jury, His Honor on the Bench, learned in the law, is entitled to a better performance.

Now, then, I made some notes on some of Mr. Gooch's remarks. As I pointed out to you, he endeavored to pass out a smoke screen, and he did a very clever job. I hope it hasn't confused you. I hope you can still keep your mind on the basic issues in the lawsuit and who told the truth. Did General Walker get on the witness stand and lie when he told you that he didn't lead a charge, when he said that he was just out there observing, or did these people, the [fol. 1868] owners of three separate stories—well, you, Ladies and Gentlemen of the Jury, can pick the one that sounds the most plausible of their stories. Remember, the burden of proof is on them, not on us, to prove the truth of this heinous charge they made against General Walker.

As I say to you, the tragedy of this case is far above and beyond the six gruesome days and nights he spent in that prison nut house amid an atmosphere of criminal insanity. It is above and beyond that. It goes to the very essence and foundation of the survival of the United States of America itself. Because, unless given the truth the people cannot remain free.

And Mr. Gooch has endeavored to smear General Walker for being out of place where he had no right to be in, as I remember he stated, in defiance of the law. He said did Walker go to Mississippi in defiance of the Court order?

Now, you heard General Walker's explanation of that, Mr. Gooch, and he looked to me like somebody that had been stabbed by a red hot poker when he heard it from General Walker.

General Walker said that: "I was relying on the Attorney General of Mississippi and Judge Satterfield, as [fol. 1869] President of the American Bar Association, to keep Governor Barnett straight in Court. All I was going to do was when the United States Government, with all its power, ready, willing and able to make an unfortunate example out of the State of Mississippi made an improper use of troops in a manner that I knew was destructive to the morale of the Army, I intended to be there."

[fol. 1870] Ted Walker wasn't stupid enough to think he could arm a couple of hundred or five hundred or a thousand helpless college kids with sticks, stones and bottles and take on the whole United States Army. He knew that the very worst thing that could happen when they got to Oxford, was, just as he said, to have an act of violence, which gave some color of authority some color of propriety to the commitment of 26,000 troops to the State of Mississippi.

Mr. Gooch said, "What in the world did you go to Mississippi for anyway?"

I saw Mr. Gooch again squench and squirm when Walker told him why. He said, "I went to Mississippi because I thought it was wrong to commit this vast number of Federal troops into the State of Mississippi, especially—especially with enemy missiles being put up in the first Communist bridgehead 90 miles off our coast in Cuba.

Now it is funny to me how so many people heard General Walker's speech, "violence is not the answer. Let's avoid this violence. Our real enemy is in Cuba." And not one, not one of these witnesses up and down here heard a word about it. Not a word about it did they hear. And remember General Walker also in answer to Mr. Gooch's question as to why he went to Mississippi said, "I commanded the [fol. 1871] troops at Little Rock and I knew you couldn't

believe a word you read in the press about integration problems, so I was going down there to see for myself." And that is exactly what Ted Walker did. He went there to see and find out, and he found out that tear gas was fired in the backs, not of the rioters, but in the backs of the Highway Patrol at a time when the students were at least 15 or 20 or 30 feet away from the United States Marshals, under circumstances that are fantastic.

Common sense would teach you that if you are going to use tear gas it must be used not as a direct attack weapon with flat projectory, at pointblank range, but as a warning. Suppose somebody had fired a round—and this is common knowledge, and I am asking you to think this over—they had fired a round up in the air down-wind. Behind the Marshals, for (sic)—

Let them get a whiff of it. Then another round. Maybe two or three.

General Walker found out. And had the press given to his concept the expensive and explosive dramatization that they gave the other side I think the United States of America and the world would have realized that this tragic incident in Oxford was completely unnecessary.

[fol. 1872] So now let's get on with the lawsuit, Mr. Gooch. Let's get away from this business of did Walker make a bunch of statements. I want you to read those statements. You are free to take them in the jury room. You find out if General Walker was advocating any violence. He wasn't that stupid. He knew that violence was the last thing in the world the people of Mississippi wanted. What he wanted was to make it appear as ridiculous as it was. To commit 26,000 troops to Mississippi with Cuba 90 miles off the shores of Florida.

Now Mr. Gooch has come in here and argued, for instance, the UPI report, let me, Ladies and Gentlemen,—and to me, this is fantastically unreasonable—that the two greatest news services of the United States—of the two, one of them says Walker arrived on the campus of the University of Mississippi, assumed command of the crowd

of rioting and scattered students, issued orders, led a charge, and the other great news service would say, if I can find it, "General Edwin A. Walker, who commanded troops at Little Rock, mounted the Confederate statue and advised the students to cease their violence." Said, "This is not the proper route to Cuba," Walker said. "The crowd jeered."

Now how significant is it that not one of these carefully coached, these dynamic-vibrant-ready witnesses, who are [fol. 1873] ready to testify to anything Mr. Gooch wanted them to,—now how significant is it that not one of them heard the jeers, with the exception, I believe, one of them did.

The Court: Five minutes.

Mr. Watts: Thank you.

[fol. 1874] So now, then, Ladies and Gentlemen of the Jury, in final summary in this case, you Ladies and Gentlemen, in the composite wisdom that exists in the diverse background of twelve American citizens, are peculiarly fitted to wade through the mess of conflicting evidence that has been produced by the Associated Press in this case and arrive at the beautiful gleam of shining truth; that is your duty. That is your sworn duty in this case. Assume, as I am sure you will—I don't see how you could for one minute reach a contrary conclusion—assume that you reach the conclusion that the Associated Press misrepresented the facts to the world when they said General Walker led a charge against Federal Marshals under the circumstances, then the question arises what shall be reasonable and just compensation for the destruction of the good name of a man whom, as I have said, has lived habitually above and beyond the call of duty in the defense of his country. He resigned his commission and all of the benefits incident thereto to be able to come in and come before the American people and tell some of his concept as to why we are losing, as to why within nineteen years we would slip from magnificent greatness to the brink of disaster. But, when in [fol. 1875] place of receiving appreciation, that a man of that character and background, that integrity, that motiva-

tion, that he should receive, he promptly gets smeared by the press who, in the language of the Court, in reliance upon one twenty-one year old reporter, and I wish I had the time to read to you Mr. Relman Morin's deposition—by an organization which has a conscious indifference of the welfare of the person to be affected by it, that they didn't even bother to check up on the language of Mr. Morin again when the United Press report came out that said that Walker was trying to quiet the violence rather than advance it.

So, I suggest to you Ladies and Gentlemen sincerely, almost desperately, that we have reached the point in the life of these United States of America, and of the people thereof, wherein we must start getting down to formalities. Where we must say to organizations like the Associated Press, "You, as great and as powerful as you are, extending around the world hold a sacred trust. In that trust is a requirement and a responsibility to place upon your endless networks of teletype the truth, and any time you fail to produce that truth through a reckless disregard of the [fol. 1876] sources of truth and accuracy, then the only capability under our form of Government in order to insure and accomplish the concept that no one shall suffer wrong, is to write a verdict in this case that will reasonably compensate General Walker for the destruction of his reputation by the battle of the range country in the area where he was raised, in the area where he grew up as a live, lean, strong young Texas ranch hand, as he was when I first saw him, a man of absolute integrity, as I say again, and I hate to be repetitious, a man who has the guts to take that witness stand under oath, which their reporter didn't have to do—it wasn't him, I defend Van Savell, it was the people behind Van Savell that made the decision that he shouldn't come into Court, but General Walker the nerve to stand here and look you Ladies and Gentlemen in the eye, and I will guarantee you had Ted Walker led a charge against the United States Marshals you would have heard from that witness stand under oath, "I did; I did."

Thank you.

[fol. 1877]

PLAINTIFF'S EXHIBIT No. 1C

BUT FORMER MAJ. GEN. EDWIN A. WALKER, IN MISSISSIPPI TO LEAD "A NATION PROTEST TO THE CONSPIRACY WITHIN," SAYS "TENS OF THOUSANDS FROM FLORIDA TO CALIFORNIA WILL COME TO SUPPORT GOV. GARNETT."

A219NI PRECEDE DALLAS (A128)

JACKSON, MISS., SEPT. 29 (AP)—FORMER MAJ. GEN. EDWIN A. WALKER ARRIVED HERE TONIGHT AND SAID VOLUNTEERS WILL START ARRIVING AT OXFORD TOMORROW TO BACK UP GOV. ROSS BARNETT IN HIS STRUGGLE WITH THE FEDERAL OVER DESEGREGATION.

"TENS OF THOUSANDS FROM FLORIDA TO CALIFORNIA WILL COME TO SUPPORT GOV. GARNETT," WALKER TOLD A NEWS CONFERENCE.

WALKER SAID HE HAS "BEEN IN TOUCH WITH THE CAPITOL. BUT I HAVE NOT TALKED WITH BARNETT PERSONALLY." HE SAID HE WAS HERE "TO STAND WITH GOV. BARNETT SHOULDER TO SHOULDER."

A NEWSMAN ASKED IF HE ADVOCATED VIOLENCE BY MISSISSIPPI TO BACK UP ITS STAND TO KEEP NEGRO JAMES H. MEREDITH OUT OF THE UNIVERSITY OF MISSISSIPPI IN THE FACE OF POSSIBLE FEDERAL TROOP INTERVENTION. HE DIDN'T ANSWER.

IN A FORMAL STATEMENT READ TO NEWSMEN HERE AND HANDED OUT BY HIS OFFICE IN DALLAS, WALKER CALLED FOR "A NATIONAL PROTEST AGAINST THE CONSPIRACY FROM WITHIN."

[fol. 1878]

PLAINTIFF'S EXHIBIT No. ID

A214NU (TOP ?)

URGENT

SIXTH NIGHT LEAD MEREDITH ROUNDUP

OXFORD, MISS., SEPT. 30 (AP)—MASSIVE FEDERAL FORCES OVERPOWERED STATE RESISTANCE AND MOVED NEGRO JAMES H. MEREDITH ON CAMPUS AT THE UNIVERSITY OF MISSISSIPPI TONIGHT, STUDENTS AND OTHER YOUTHS RIOTED IN WAVES, FORCING A CALL FOR FEDERAL TROOPS.

THE RAMPAGING MOB OF WHITE YOUTHS CHARGES A LINE OF FEDERAL MARSHALS TWICE, DESPITE GOV. ROSS BARNETT'S INDIRECT ADMISSION THAT HE WAS GIVING UP PHYSICAL RESISTANCE IN MISSISSIPPI'S BATTLE TO KEEP THE 29-YEAR-OLD NEGRO OUT OF OLE MISS.

THE 64-YEAR-OLD GOVERNOR, WHO SWORE HE WOULD GO TO JAIL RATHER THAN SEE MEREDITH IN OLE MISS, ISSUED A STATEMENT IN JACKSON SAYING MISSISSIPPI WAS "COMPLETELY SURROUNDED" AND "PHYSICALLY OVERPOWERED."

THE FEDERAL MARSHALS BLASTED BACK AT THE RIOTING YOUTHS WITH TEAR GAS—STOPPING TWO CHARGES AND BREAKING UP A RAMPAGE OF VANDALISM.

FORMER MAJ. GEN. EDWIN WALKER LED ONE OF THE CHARGES.

BLASTS OF BIRDSHOT PELLETS KILLED ONE NEWSMAN AND WOUNDED ANOTHER.

THE DEAD MAN WAS IDENTIFIED BY HOSPITAL OFFICIALS AS PAUL GUIRARD, REPORTING FOR THE LONDON DAILY SKETCH AND AGENCE PRESSE OF FRANCE.

BILL CRIER OF THE MEMPHIS BUREAU OF THE ASSOCIATED PRESS, SUFFERED A SLIGHT WOUND IN THE BACK.

A215NU

FLYING BOTTLES, ROCKS AND BRICKS LEFT SCORES MORE BLEEDING AND HURT.

A MARSHALL CLUBBED A WHITE STUDENT ENTERING THE DORMITORY WHERE MEREDITH WAS HOUSED. STUDENTS HOOTED: "ONE NIGGER, ONE DORMITORY." MANY OF THE STUDENTS PACKED THEIR CLOTHES AND LEFT RATHER THAN STAY IN THE DORMITORY WITH THE NEGRO.

EVEN AS THE YOUTHS STORMED THE MARSHALS THE FIRST TIME, PRESIDENT KENNEDY ADDRESSED HIMSELF TO THE OLE MISS STUDENTS IN A NATIONWIDE BROADCAST.

"YOUR HONOR AND THE HONOR OF THE UNIVERSITY ARE AT STAKE," THE PRESIDENT SAID.

IT WASN'T KNOWN WHETHER HE WAS AWARE OF THE RIOTING AS HE SPOKE.

AS THE RIOTING PASSED THE END OF ITS FOURTH HOUR, FEDERAL TROOPS STARTED MOVING IN FROM TWO DIRECTIONS—TEAMS OF RIOT-TRAINED MILITARY POLICEMEN FROM THEIR TEMPORARY BASE AT MEMPHIS, AND AN ARMORED REGIMENT OF THE MISSISSIPPI NATIONAL GUARD FROM TUPELO.

RT1140PCS

A216NU

CORRECTION

OXFORD, MISS., SIXTH NIGHT LEAD MEREDITH
ROUNDUP (A214NU) SEVENTH GRAF STARTING
"THE DEAD," ETC., MAKE READ X X X AGENCE
FRANCE PRESSE, ETC., (INSERTING FRANCE).

8TH GRAF MAKE READ AT START BILL CRIDER
ETC., (NOT CRIER)

THE/ AP

RT1142PCS NM

V

A217AX

URGENT

MEMPHIS, TENN., SEPT. 30 (AP)—THE ARMY
SAID LATE TONIGHT A FEDERALIZED MISSIS-
SIPPI NATIONAL GUARD UNIT BEGAN MOVING
TOWARD THE UNIVERSITY OF MISSISSIPPI AT
OXFORD AT 10:30 P.M.

TWO OTHER GUARD UNITS—ONE STATIONED
AT LAUREL AND THE OTHER AT AMORY—WERE
PLACED ON STANDBY ALERT.

AN ARMY SPOKESMAN AT THE MEMPHIS
NAVAL AIR STATION, COMMAND HEADQUARTERS
FOR FEDERAL TROOPS ASSEMBLED FOR THE
MISSISSIPPI INTEGRATION CRISIS, DECLINED TO
SAY HOW MANY MEN WERE INVOLVED.

KY1244AES NM

A218WX

U R G E N T

(150)

INSERT

WASHINGTON—THIRD NIGHT LEAD KENNEDY-
MISSISSIPPI (A173WX) INSERT AFTER THIRD
GRAPH "A FORCE X X X PROBABLY TOMORROW."

[fol.1879]

PLAINTIFF'S EXHIBIT No. 1E

SEN. LEVERETT SALTONSTALL, R-MASS., SAID
OF THE ADDRESS:

"I THOUGHT THE PRESIDENT EXPRESSED THE
SENTIMENTS OF THE GOVERNMENT AND THE
PEOPLE OF THE UNITED STATES EXTREMELY
WELL. I SUPPORT WHOLEHEARTEDLY WHAT HE
SAID."

SEN. JENNINGS RANDOLPH, D-W.VA., TERMED
IT "BOTH A STRONG AND REASONABLE STATE-
MENT." HE SAID KENNEDY OFFERED THE OLIVE
BRANCH OF CONCILIATION "BUT MADE IT CLEAR
THERE CAN BE NO COMPROMISE WITH THE LAW
OF THE LAND."

RANDOLPH SAID "AMERICANS GENERALLY
WILL BOTH APPLAUD HIS WORDS AND RESPOND
TO HIS APPEAL."

REP. WILLIAM M. COLMER, D-MISS., ISSUED A
STATEMENT ON BEHALF OF SEVEN OF MISSIS-
SIPPI'S EIGHT MEMBERS OF CONGRESS. REP.
FRANK E. SMITH, D-MISS., DID NOT JOIN IN THE
ATTACK ON KENNEDY'S ADDRESS. HE IS LEAV-
ING CONGRESS AT THE END OF THIS SESSION TO
BECOME A MEMBER OF THE BOARD OF THE TEN-
NESSEE VALLEY AUTHORITY.

SEN. JAMES O. EASTLAND, D-MISS., ISSUED A BRIEF AND POINTED STATEMENT OF HIS OWN. "I DISAGREE ENTIRELY WITH THE PRESIDENT'S SPEECH," HE SAID.

FROM SENATE DEMOCRATIC LEADER MIKE MANSFIELD OF MONTANA CAME THIS REACTION:

"THANK GOD THAT REASON, UNDERSTANDING AND LAW SEEM TO HAVE PREVAILED."

KENNEDY SAID IN A NATIONALLY-BROADCAST RADIO-TELEVISION ADDRESS THAT FEDERAL COURT ORDERS FOR MEREDITH'S ADMISSION ARE BEGINNING TO BE OBEYED.

THEY

(MORE)

NU-JB920PCS

A183NU

URGENT

5TH NIGHT LEAD MEREDITH ROUNDUP

OXFORD, MISS., SEPT. 30 (AP)—BEHIND A MASSIVE SHOW OF FEDERAL FORCE NEGRO JAMES H. MEREDITH MOVED ON THE CAMPUS OF THE UNIVERSITY OF MISSISSIPPI TONIGHT AND STUDENTS ERUPTED IN TWO WAVES OF RIOTING.

FEDERAL MARSHALS FIRED TEAR GAS BOTH TIMES—FIRST WHEN STUDENTS BROKE INTO A RAMPAGE OF VANDALISM, AND AGAIN WHEN FORMER MAJ. GEN. EDWIN WALKER LED A CHARGE OF BRICK-THROWING STUDENTS AGAINST THE MARSHALS.

WALKER SAID HIS STUDENT FORCE, NUMBERING ABOUT 1,000, WOULD REGROUP AND CHARGE AGAIN.

THE VIOLENCE ERUPTED AT THE VERY MOMENT PRESIDENT KENNEDY WAS SPEAKING TO THE NATION URGING A PEACEFUL SETTLEMENT OF THE FEDERAL-STATE DISPUTE OVER RACIAL SEGREGATION.

REFERRING TO THE BUILDUP OF FEDERAL TROOPS READY FOR ACTION IN ADVANCE OF THE FEDERAL GOVERNMENT'S CLIMACTIC MOVE TODAY, KENNEDY SAID:

"MY OBLIGATION AS PRESIDENT WAS INESCAPABLE. I ACCEPTED."

HE ADDED:

"I DEEPLY REGRET THE STEPS THAT WERE TAKEN, BUT ALL OTHER METHODS, INCLUDING CONCILIATION, HAD BEEN TRIED."

THE VIOLENCE ALSO ERUPTED JUST A FEW MINUTES AFTER GOV. ROSS BARNETT INDIRECTLY ADMITTED HDEFEAT IN A STATEMENT ISSUED AT THE GOVERNOR'S MANSION AT JACKSON.

IT APPEARED MEREDITH WOULD BE ENROLLED TOMORROW.

THE SECOND WAVE OF RIOTING TOOK THE FORM OF A DIRECT CHARGE ON THE MARSHALS HOLDING GUARD POSTS SHOULDER TO SHOULDER OUTSIDE THE ADMINISTRATION BUILDING.

WALKER, AN OUTSPOKEN ADVOCATE OF MISSISSIPPI RESISTANCE TO FEDERAL COURT DESEGREGATION ORDERS, COMMANDED THE 101ST AIRBORNE IN THE LITTLE ROCK DESEGREGATION IN 1957. NOW RETIRED, HE SAYS HE WAS "ON THE WRONG SIDE" THEN.

THE STUDENTS RUSHED THE MARSHALS WITH BRICKS AND SOFT DRINK BOTTLES FLYING. SOME OF THEM WORE GAS MASKS.

BUT THE MARSHALS TURNED THEM BACK WITH THEIR GAS LAUNCHERS.

THE FIRST OUTBURST OF VIOLENCE, INSTEAD OF TAKING THE FORM OF A CHARGE, APPEARED MORE LIKE SPORADIC OUTBURSTS OF VANDALISM.

THE MOB OF STUDENTS, 6TH GRAF FOURTH NIGHT LEAD MEREDITH ROUNDUP (A175NU)

JB925PCS NM

[fol. 1880]

PLAINTIFF'S EXHIBIT No. 1F

VIASION OF THE CIVIL RIGHTS OF ALL THE PEOPLE OF THESE UNITED STATES AND THE CONCENTRATION OF ALL POWER GOVERNMENT INTO SOME FORM OF A TOTALITARIAN STATE."

SEN. LEVERETT SALTONSTALL, R-MASS., SAID OF THE ADDRESS:

"I THOUGHT THE PRESIDENT EXPRESSED THE SENTIMENTS OF THE GOVERNMENT AND THE PEOPLE OF THE UNITED STATES EXTREMELY WELL. I SUPPORT WHOLEHEARTEDLY WHAT HE SAID."

SEN. JENNINGS RANDOLPH, D-W.VA., TERMED IT "BOTH A STRONG AND REASONABLE STATEMENT." HE SAID KENNEDY OFFERED THE OLIVE BRANCH OF CONCILIATION "BUT MADE IT CLEAR THERE CAN BE NO COMPROMISE WITH THE LAW OF THE LAND."

RANDOLPH SAID "AMERICANS GENERALLY WILL BOTH APPLAUD HIS WORDS AND RESPOND TO HIS APPEAL."

REP. WILLIAM M. COLMER, D-MISS., ISSUED A STATEMENT ON BEHALF OF SEVEN OF MISSISSIPPI'S EIGHT MEMBERS OF CONGRESS. REP. FRANK E. SMITH, D-MISS., DID NOT JOIN IN THE ATTACK ON KENNEDY'S ADDRESS. HE IS LEAVING CONGRESS AT THE END OF THIS SESSION TO BECOME A MEMBER OF THE BOARD OF THE TENNESSEE VALLEY AUTHORITY.

SEN. JAMES O. EASTLAND, D-MISS., ISSUED A BRIEF AND POINTED STATEMENT OF HIS OWN. "I DISAGREE ENTIRELY WITH THE PRESIDENT'S SPEECH," HE SAID.

FROM SENATE DEMOCRATIC LEADER MIKE MANSFIELD OF MONTANA CAME THIS REACTION:

"THANK GOD THAT REASON, UNDERSTANDING AND LAW SEEM TO HAVE PREVAILED."

KENNEDY SAID IN A NATIONALLY-BROADCAST RADIO-TELEVISION ADDRESS THAT FEDERAL COURT ORDERS FOR MEREDITH'S -ADMISSION ARE BEGINNING TO BE OBEYED.

THEV

(MORE)

NU-JB920PCS

A183NU

URGENT

5TH NIGHT LEAD MEREDITH ROUNDUP

OXFORD, MISS., SEPT. 30 (AP)—BEHIND A MASSIVE SHOW OF FEDERAL FORCE NEGRO JAMES H. MEREDITH MOVED ON THE CAMPUS OF THE

UNIVERSITY OF MISSISSIPPI TONIGHT AND STUDENTS ERUPTED IN TWO WAVES OF RIOTING.

FEDERAL MARSHALS FIRED TEAR GAS BOTH TIMES—FIRST WHEN STUDENTS BROKE INTO A RAMPAGE OF VANDALISM, AND AGAIN WHEN FORMER MAJ. GEN. EDWIN WALKER LED A CHARGE OF BRICK-THROWING STUDENTS AGAINST THE MARSHALS.

WALKER SAID HIS STUDENT FORCE, NUMBERING ABOUT 1,000, WOULD REGROUP AND CHARGE AGAIN.

THE VIOLENCE ERUPTED AT THE VERY MOMENT PRESIDENT KENNEDY WAS SPEAKING TO THE NATION URGING A PEACEFUL SETTLEMENT OF THE FEDERAL-STATE DISPUTE OVER RACIAL SEGREGATION.

REFERRING TO THE BUILDUP OF FEDERAL TROOPS READY FOR ACTION IN ADVANCE OF THE FEDERAL GOVERNMENT'S CLIMACTIC MOVE TODAY, KENNEDY SAID:

"MY OBLIGATION AS PRESIDENT WAS INESCAPABLE. I ACCEPTED."

HE ADDED:

"I DEEPLY REGRET THE STEPS THAT WERE TAKEN, BUT ALL OTHER METHODS, INCLUDING CONCILIATION, HAD BEEN TRIED."

THE VIOLENCE ALSO ERUPTED JUST A FEW MINUTES AFTER GOV. ROSS BARNETT INDIRECTLY ADMITTED HDEFEAT IN A STATEMENT ISSUED AT THE GOVERNOR'S MANSION AT JACKSON.

IT APPEARED MEREDITH WOULD BE ENROLLED TOMORROW.

THE SECOND WAVE OF RIOTING TOOK THE FORM OF A DIRECT CHARGE ON THE MARSHALS HOLDING GUARD POSTS SHOULDER TO SHOULDER OUTSIDE THE ADMINISTRATION BUILDING.

WALKER, AN OUTSPOKEN ADVOCATE OF MISSISSIPPI RESISTANCE TO FEDERAL COURT DESEGREGATION ORDERS, COMMANDED THE 101ST AIRBORNE IN THE LITTLE ROCK DESEGREGATION IN 1957. NOW RETIRED, HE SAYS HE WAS "ON THE WRONG SIDE" THEN.

THE STUDENTS RUSHED THE MARSHALS WITH BRICKS AND SOFT DRINK BOTTLES FLYING. SOME OF THEM WORE GAS MASKS.

BUT THE MARSHALS TURNED THEM BACK WITH THEIR GAS LAUNCHERS.

THE FIRST OUTBURST OF VIOLENCE, INSTEAD OF TAKING THE FORM OF A CHARGE, APPEARED MORE LIKE SPORADIC OUTBURSTS OF VANDALISM.

THE MOB OF STUDENTS, 6TH GRAF FOURTH NIGHT LEAD MEREDITH ROUNDUP (A175NU)

JB925PCS NM

[fol. 1881]

PLAINTIFF'S EXHIBIT No. 1G

A183WX

WASHINGTON—FIRST ADD FIRST LEAD CONGRESSIONAL-MISSISSIPPI A182WX X X X BE OBEYED.

THE PRESIDENT SAID HE HOPES IT WILL NOT BE NECESSARY TO CALL ON THE FEDERALIZED MISSISSIPPI NATIONAL GUARD OR ON TROOPS MASSED AT MEMPHIS, TENN., TO ENFORCE THE ORDERS.

"I DON'T LIKE THE DECISION OF THE COURT IN THIS CASE A MINUTE, BUT, SINCE IT IS THE LAW, I DON'T SEE HOW IT CAN BE BYPASSED," ELLENDER SAID.

MANSFIELD PRAISED KENNEDY FOR "MAKING HIS OFFICE AVAILABLE FOR THE CONSIDERATION OF EVERY POSSIBLE ALTERNATIVE IN SEEKING A SOLUTION TO A PROBLEM WHICH, IF CARRIED TO THE EXTREME, COULD HAVE HAD TRAGIC CONSEQUENCES FOR ALL OF US."

WITH MEREDITH ON THE UNIVERSITY CAMPUS, AND APPARENTLY TO BE ENROLLED TOMORROW, MANSFIELD SAID "THE FINAL SOLUTION NOW IS IN THE HANDS OF THE STUDENTS AND FACULTY OF OLE MISS AND THE STATE ADMINISTRATION, AND I AM CONFIDENT THAT AS AMERICANS, THEY WILL LIVE UP TO THEIR FULL RESPONSIBILITIES."

SEN. CLIFFORD P. CASE, R-N.J., SAID OF THE PRESIDENT'S ADDRESS "OF COURSE, I AGREE WITH IT AND I HOPE IT WILL BE EFFECTIVE."

(NO PICKUP).

EG1130PED NM

A184WX

O

A185WX (CQ)

URGENT

INSERT:

WASHINGTON—THIRD LEAD KENNEDY-MISSISSIPPI (A178WX). INSERT AFTER 3RD GRAF "A FORCE X X X PROBABLY TOMORROW."

AFTER BEING DISPERSED ONCE, THE STUDENTS RETURNED IN A BRICK-THROWING AT-

TACK LED BY FORMER MAJ. GEN. EDWIN A. WALKER WHO RESIGNED FROM THE ARMY AFTER BEING REPRIMANDED FOR TRYING TO INFLUENCE HIS TROOPS VOTES. TEAR GAS FIRED BY THE MARSHALS SCATTERED THE YOUTHS AGAIN.

WALKER, A RESIDENT OF TEXAS AND ADVOCATE OF FAR-RIGHT POLITICAL VIEWS, SAID HE WOULD REGROUP THE THOUSAND OR SO STUDENTS AND ATTACK AGAIN.

IN SOLEMN TONES ETC 4TH GRAF A178WX

—O—

INSERT AFTER 4TH GRAF "IN SOLEMN X X X BE REQUIRED."

HOWEVER, AN HOUR AFTER HE HAD FINISHED SPEAKING THERE WAS NO WORD OF CANCELLATION OF ORDERS TO THREE UNITS OF THE MISSISSIPPI NATIONAL GUARD TO REPORT TO OXFORD AT 10 A.M. EST TOMORROW.

A SPOKESMAN AT THE PENTAGON HERE SAID HE KNEW OF NO CHANGE OF ORDERS AS YET. NOR WAS THERE ANY WORD FROM MISSISSIPPI OF A CANCELLATION OF THE ORDERS TO TWO BATTLE GROUPS AND AN ARMORED CAVALRY UNIT OF THE GUARD.

ALL TOLD ETC 5TH GRAF A178WX

EG1134PED NM

A186

FIRST LEAD UNDATED KENNEDY-EISENHOWER INTEGRATION ((A1227) (270) BY THE ASSOCIATED PRESS

—OR—

NEW YORK, SEPT. 30 (AP)—

PRESIDENT KENNEDY IN ADDRESSING THE NATION TONIGHT ABOUT THE MISSISSIPPI INTEGRATION CRISIS REFERRED, AS DID PRESIDENT EISENHOWER IN THE LITTLE ROCK, ARK., CRISIS, TO THE INESCAPABILITY OF HIS DUTY TO INTERFERE.

IT WAS ONLY ONE OF MANY POINTS OF SIMILARITY IN THE TWO PRESIDENTS' ADDRESSES, DELIVERED FIVE YEARS APART, ON BASICALLY THE SAME TOPIC.

KENNEDY TOLD THE NATION: "AMERICANS ARE FREE, IN SHORT, TO DISAGREE WITH THE LAW—BUT NOT DISOBEY IT." EISENHOWER HAD SAID: "OUR PERSONAL OPINIONS ABOUT THE (COURT) DECISION HAVE NO BEARING ON THE MATTER OF ENFORCEMENT."

KENNEDY: "OUR NATION IS FOUNDED ON THE PRINCIPLE THAT OBSERVANCE OF THE LAW IS THE ETERNAL SAFEGUARD OF LIBERTY." EISENHOWER: "THE FOUNDATION OF THE AMERICAN WAY OF LIFE IS OUR NATIONAL RESPECT FOR LAW."

[fol. 1882]

PLAINTIFF'S EXHIBIT No. 1H

SPLIT

APR NU 2

HERE IS YOUR SPECIAL SUNDAY MORNING
BOUNDUP OF LOUISIANA-MISSISSIPPI NEWS:
(RALLY)

(SHREVEPORT, LOUISIANA)—A CROWD ESTIMATED AT 3,000 RAILED IN SHREVEPORT LAST (SATURDAY NIGHT TO OFFER VERBAL SUPPORT TO MISSISSIPPI GOVERNOR ROSS BARNETT IN HIS BATTLE AGAINST DESEGREGATION.

REP. PAREY BRANTON OF WEBSTER PARISH SAID A DELEGATION OF LOUISIANA LEGISLATORS AND CITIZENS WOULD LEAVE MONROE TODAY (SUNDAY) FOR JACKSON, MISSISSIPPI, TO TELL BARNETT THEY WERE BACKING HIM. BRANTON DIDN'T SAY HOW MANY PERSONS OR CARS WOULD BE IN THE CARAVAN.

FORMER STATE SENATOR W.M. RAINACH OF SUMMERFIELD TOLD THE RALLY HE HAD TALKED WITH BARNETT AND THE MISSISSIPPI GOVERNOR DID NOT WANT LARGE GROUPS OF "UNDISCIPLINED PEOPLE AT OXFORD INTERFERING WITH THEIR "PRECONCEIVED PLAN TO DEAL WITH "THE DESEGREGATION ISSUE."

—DASH—

(RAINACH ALSO TOLD THE AUDIENCE HE HAD INFORMED THE GOVERNOR THAT LOUISIANA COULD HAVE 10,000 CITIZENS IN OXFORD TO RALLY UNDER HIS LEADERSHIP.

(REP. WELLBORN JACK OF CADDO PARISH TOLD THE RALLY: "I'VE KNOWN ROSS BARNETT FOR A LONG TIME. WHEN HE SAID HE WOULD GO TO JAIL BEFORE HE ALLOWS THE SCHOOLS IN HIS STATE TO BE INTEGRATED, HE MEANT IT."

—O—

(NEW TOP—WALKER)

(JACKSON, MISSISSIPPI)—FORMER ARMY MAJOR GEN. EDWIN WALKER, IN JACKSON, MISSISSIPPI, SAYS VOLUNTEERS START ARRIVING IN MISSISSIPPI TODAY (SUNDAY) TO SUPPORT GOVERNOR ROSS BARNETT IN HIS STRUGGLE WITH THE FEDERAL GOVERNMENT OVER INTEGRATION.

WALKER, AFTER HIS ARRIVAL IN JACKSON LAST NIGHT, TOLD A NEWS CONFERENCE: "TENS

OF THOUSANDS FROM FLORIDA TO CALIFORNIA
WILL COME TO SUPPORT GOV. BARNETT."

WALKER SAID HE PLANNED "TO STAND WITH
GOV. BARNETT SHOULDER TO SHOULDER."

—O—

(MEREDITH)

THE HEAD OF THE NEW ORLEANS BRANCH OF
THE NEW ORLEANS NATIONAL ASSOCIATION FOR
THE ADVANCEMENT OF COLORED PEOPLE SAYS
JAMES MEREDITH WILL SPEAK IN NEW ORLEANS
TODAY (SUNDAY).

CHAPTER PRESIDENT ARTHUR CHAPITAL SAYS
MEREDITH WILL SPEAK AT AN N-A-A-C-P MEET-
ING IN THE GYMNASIUM-AUDITORIUM OF THE
CORPUS CHRISTI SCHOOL AT 3:30 P.M.

—O—

STATION K-E-E-L, SHREVEPORT (STATION MGRS)
SHREVEPT

STATION K E E L, SHREVEPORT (STATION MGRS)

SHREVEPORT STATION K-E-E-L JOINS US ON
THIS THIS WIRE MORNING ...

WELCOME ABOARD, K E E L.

ASSOCIATED PRESS, NEW ORLEANS-RADIO

[fol. 1883]

PLAINTIFF'S EXHIBIT No. 1 I

A205NU

URGENT

OXFORD, MISS.—2ND ADD RIOT SEPARATE
(A200NU) XXX TRUCK.

AT THAT POINT THE MARSHALS MOVED. THEY
DONNED THEIR GAS MASKS AND BEGAN FIRING
TEAR GAS.

FOR A TIME, THEY SCATTERED THE TROUBLE-MAKERS.

THEN FORMER MAJ. GEN. EDWIN WALKER LED A CHARGE OF ABOUT 1,000 OF THE STUDENTS AGAINST THE MARSHALS, STILL HOLDING THEIR POSITIONS AROUND THE RED BRICK ADMINISTRATION BUILDING.

THE STUDENTS MOVED IN ON THE MARSHALS THROWING BOTTLES AND ROCKS AND BRICKS.

THE MARSHALS FIRED MORE TEAR GAS.

THE ATTACKERS BACKED UP.

(MORE)

RT1058PCS NM

A206NU

URGENT

INSERT

OXFORD, MISS., RIOT SEPARATE, (A200NU) INSERT AFTER THIRD GRAF "ANOTHER NEWSMAN XX

BUST IT

[fol. 1884]

PLAINTIFF'S EXHIBIT No. 2A

30NU

BULLETIN

MEREDITH DEVELOPING

JACKSON, MISS., SEPT. 30 (AP)—GOV. ROSS R. BARNETT'S OFFICE SAID TONIGHT HE WOULD ISSUE A STATEMENT SHORTLY. APPARENTLY IN CONNECTION WITH THE DESEGREGATION CASE INVOLVING NEGRO JAMES H. MEREDITH AND THE ALL-WHITE UNIVERSITY OF MISSISSIPPI.

JB634PCS NM

A131AX

TELEGRAPH EDITORS (120)

JACKSON, MISS.—MEREDITH-VOLUNTEERS, (A 69AX), SUB FOLLOWING FOR 9TH GRAF: "HOWEVER, A GROUP X X X THE UNIVERSITY."

A GROUP OF ABOUT 20 NORTH LOUISIANA, LEGISLATORS, SHERIFFS AND MAYORS WENT TO JACKSON TODAY TO PLEDGE SUPPORT TO BARNETT.

STATE REP. PAREY BRANTON OF WEBSTER PARISH PRESENTED BARNETT WITH A CITATION HE SAID "SYMBOLIZES THE CONCERN, ANGER AND RESOLVE OF YOUR SISTER STATE OF LOUISIANA."

SHERIFF C. E. HESTER OF TALLULAH PRESENTED BARNETT WITH A CITATION IN BEHALF OF ALL SHERIFFS FROM NORTHEAST LOUISIANA'S 5TH CONGRESSIONAL DISTRICT.

"WE ENDORSE YOUR FIGHT FOR CONSTITUTIONAL GOVERNMENT AND STATE SOVEREIGNTY," IT SAID.

BARNETT, ACCOMPANIED BY MRS. BARNETT, HINDS COUNTY JUDGE RUSSEL MOORE AND DICK MORPHEW OF THE CITIZENS COUNCIL, EMERGED FROM THE MANSION AND TOLD THE GROUP:

"I AM GRATEFUL TO YOU FOR YOUR SUPPORT. I APPRECIATE YOUR SUPPORT. WE HAVE COMMON PROBLEMS. I INTEND TO FIGHT THIS BATTLE ALL THE WAY THROUGH THE COURTS."

GEN. WALKER ETC. 10TH GRAF PVS.

EP739PES

1242

[fol. 1885]

PLAINTIFF'S EXHIBIT No. 3

A12NU

(WALKER)

A12WX

(LD REACTION & BJT)

UM

A12AX

URGENT

OXFORD—FIRST ADD FIRST LEAD OXFORD WITH MEREDITH (A7AX) X X X WERE REPORTED.

DOZENS OF RIOTERS, MOSTLY YOUNG BOYS WITH SHIRTTAILS OUT WERE BEING ROUNDED UP. AT LEAST 30 AND POSSIBLE MORE WERE HERDED INTO THE FEDERAL COURTHOUSE ON THE SQUARE.

PRISONERS WERE FORCED TO PLACE THEIR HANDS OVER THEIR HEADS AND WERE MARCHED AT BAYONET POINT TO THE COURT-HOUSE.

THE LATEST RIOTING CAME AFTER FORMER MAJ. GEN. EDWIN WALKER HAD APPEARED IN THE SQUARE—CLAD IN A DARK BLUE SUIT AND WEARING A 10-GALLON HAT.

HE STAYED IN THE SQUARE BRIEFLY, SPOKE QUIETLY TO SOME OF THOSE IN THE CROWD NEAREST THE TROOPS, AND THEN BACKED OFF AS MILITARY EYES WATCHED HIM CLOSELY.

THE BATTLE LEFT A BLOCK OF LITTER AND DEBRIS.

THE SAME YOUTHS, ALONG WITH 100 OTHERS, EARLIER HAD BEEN CLEARED FROM THE SQUARE AFTER CURSING, SCREAMING, AND THROWING ROCKS AND BOTTLES AT PASSING MILITARY VEHICLES.

THEY WERE DRIVEN FROM THE SQUARE BY MP'S ARMED WITH TEAR GAS, AND BAYONETS FIXED TO RIFLES. REMNANTS OF THE CROWD GATHERED ABOUT A HALF BLOCK AWAY SHORTLY BEFORE THE FIRING BROKE OUT.

MILITARY JEEPS RACED AROUND THE LITTERED SQUARE, RUSHING TO TROUBLE SPOTS. DRIZZLING RAIN, ALTERNATED WITH SUNSHINE, FELL ON THE TOWN BUT FAILED TO COOL THE WRATH OF THE MOB.

MEDICS SET UP A FIRST AID STATION BESIDE THE TOWN'S ANCIENT CONFEDERATE WAR MEMORIAL AND TROOPS, WHO BEGAN CLEARING THE STREETS PLACED A PILE OF DEBRIS NEAR THE GRAY STATUE.

LIFE IN THE USUALLY, SLEEPY SOUTHERN TOWN WAS AT A STANDSTILL. ALMOST ALL BUSINESSES FAILED TO OPEN THIS MORNING AND THE STREETS WERE PRACTICALLY DESERTED EXCEPT FOR RIOTERS, SOLDIERS AND NEWSMEN.

NEGRO TROOPS ETC., THIRD GRAF ORIGINAL
(A160-61NU)

SF1241PES NM

A13NU

U R G E N T

OXFORD, MISS., FIRST ADD MORIN'S WALKER
(A9NU) X X X FUMES.

WALKER SPEARED ON THE OXFORD TOWN SQUARE DURING THE DISTURBANCE THERE TODAY.

WALKER MARCHED AHEAD OF A FILE OF SOLDIERS AS THOUGH HE WERE THEIR INSPECTING OFFICER.

FINALLY, AN ARMY OFFICER ASKED HIM TO MOVE. HE REFUSED. THE OFFICER ORDERED SEVERAL SOLDIER CARRYING RIFLES WITH BAYONETS ALONGSIDE WALKER.

THE SOLDIERS HELD THEIR BAYONETS WITHIN INCHES OF THE FORMER GENERAL, BUT DID NOT TOUCH HIM. THE OFFICER SAID SOMETHING TO WALKER AND HE WALKED OFF THROUGH THE CROWD.

AS1143ACS

[fol. 1886] A14WX (LD REACTION & BJT)

FIRST LEAD KENNEDY REACTION (350)

WASHINGTON, OCT. 1 (AP)—SEN. WAYNE MORSE, D-ORE., TOLD THE SENATE TODAY PRESIDENT KENNEDY ROSE TO "THE SUPERLATIVE HEIGHTS OF GREATNESS" IN HIS ADDRESS TO THE NATION ON THE UNIVERSITY OF MISSISSIPPI INTEGRATION CRISIS.

MORSE DECLARED THE PRESIDENT IN THE RADIO-TELEVISION ADDRESS LAST NIGHT REDEDICATED THE NATION "TO GOVERNMENT BY LAW, INSTEAD OF GOVERNMENT BY MEN, OR MOB."

AGREEING, SEN. STEPHEN M. YOUNG, D-OHIO, CALLED THE PRESIDENT'S STATEMENT "SOMBER YET TEMPERATE" AND CONCILIATORY, BUT

"FIRM IN HIS DEMAND THAT THE FEDERAL LAW MUST BE OBEYED."

SEN. JOHN STENNIS, D-MISS., CALLED FOR WITHDRAWAL OF THE NEGRO STUDENT, JAMES H. MEREDITH FROM THE UNIVERSITY "TO AVOID FURTHER BLOODSHED AND LOSS OF LIFE."

SEN. JAMES O. EASTLAND, D-MISS., SAID MEREDITH NEVER SHOULD HAVE BEEN ADMITTED, AND CRITICIZED THE FEDERAL JUDGES WHO ORDERED THE UNIVERSITY TO ENROLL HIM.

REP. DALE ALFORD, D-ARK., TOLD KENNEDY IN A TELEGRAM "YOU HAVE MADE THE SAME TRAGIC MISTAKE AS DID YOUR PREDECESSOR IN SENDING ARMED FORCES INTO A SOVEREIGN STATE."

"SHALL THE AMERICAN REPUBLIC ENDURE OR SHALL WE SACRIFICE OUR STATE SOVEREIGNTY TO AN ALL-POWERFUL SUPER STATE ACTING IN DIRECT OPPOSITION TO THE WILL OF THE MAJORITY OF THE PEOPLE OF A SOVEREIGN STATE AND THEREFORE IN OPPOSITION TO THE CONSTITUTION?" THE ARKANSAS CONGRESSMAN ASKED.

ALFORD'S REFERENCE TO KENNEDY'S PREDECESSOR WAS TO FORMER PRESIDENT DWIGHT D. EISENHOWER, WHO ORDERED FEDERAL TROOPS INTO LITTLE ROCK, ARK., TO QUELL INTEGRATION DISORDERS THERE.

ALFORD SAID "THE GREAT MORAL ISSUE IN MISSISSIPPI TODAY . . . IS NOT SEGREGATION VS. INTEGRATION OF THE SCHOOLS: IT IS, INSTEAD, THE ISSUE OF THE SOVEREIGN PEOPLE AND THE CONSTITUTION VS. DEFAULTING PUBLIC TRUSTEES AS OATH BREAKING SUSURPERS."

SEN. SAM J. ERVIN JR., D-N. C., ALSO SAID "I DEPLORE THE GREAT TRAGEDY WHICH HAS HAPPENED IN MISSISSIPPI."

"IT SEEMS TO ME," HE ADDED, "THAT THOSE WHO ARE ENGAGED IN FOMENTING LITIGATION WHICH HAS SUCH A TRAGIC AFTERMATH MIGHT WELL MEDITATE UPON THE WORDS OF ST. PAUL WHEN HE SAID: 'ALL THINGS ARE LAWFUL UNTO ME, BUT ALL THINGS ARE NOT EXPEDIENT.'"

SEN. JACOB K. JAVITS, R-N. Y., CALLED THE VIOLENCE AT MISSISSIPPI UNBELIEVABLE, STUPID AND TRAGIC.

HE SAID KENNEDY IS ENTITLED TO THE NATION'S FULL SUPPORT AS HE ASSERTED THE "PARAMOUNT AUTHORITY" OF THE FEDERAL GOVERNMENT.

"WE CAN ONLY HOPE THE LESSON THAT RECKLESS DEFIANCE OF THE LAW ONLY BREEDS ANARCHY WILL AT LEAST BE LEARNED IN MISSISSIPPI," JAVITS SAID.

FOR THE MOST PART REACTION IN CONGRESS DIVIDED ALONG SECTIONAL LINES.

SOMEWHERE IN ETC., 3RD GRAF A7WX.

ER152PED

A15KX (DARLING)

LEAD EXECUTION

SAN QUENTIN, CALIF., OCT. 1 (AP)-MELVIN T. DARLING, 6 FOOT 7, WENT QUIETLY TO HIS DEATH IN THE PRISON GAS CHAMBER TODAY.

THE LETHAL GAS BEGAN GENERATING AT 10:30 A.M., AND HE WAS PRONOUNCED DEAD AT 10:10.

DARLING, 29 X X X 2ND GRAF A96FX

GM1154ACS NM

A16WX (INSERT)

INSERT

WASHINGTON—MISS. SENATE (A5WX), INSERT THE FOLLOWING AFTER 4TH GRAF "THE RESUME X X X PROTECT MEREDITH."

ALSO AT THE CAPITOL, REP. JOHN BELL WILLIAMS, D-MISS., TOLD THE HOUSE THE RIOT WAS STARTED BY A U.S. MARSHAL "FIRING DIRECTLY INTO A GROUP OF STUDENTS." HE SAID HIS INFORMATION CAME FROM A RESPONSIBLE OFFICIAL ON THE OLE MISS CAMPUS. WILLIAMS WAS ONE OF SEVERAL SOUTHERN CONGRESSMEN, MOST OF THEM FROM MISSISSIPPI, WHO ADDRESSED THE HOUSE ON THE SITUATION IN OXFORD. ALL CALLED IT "TRAGIC."

"EASTLAND SAID, "ETC., 5TH GRAF.

JK157PED

[fol. 1887] PLAINTIFF'S EXHIBIT No. 3A

A20WX

BULLETIN MATTER

WASHINGTON—FIRST ADD FIRST LEAD WALKER (A19WX) X X X INSURRECTION.

KENNEDY SAID WALKER WAS ARRESTED AT A MILITARY ROADBLOCK NEAR OXFORD, MISS., AND WOULD BE ARRAIGNED LATER TODAY.

EARLIER IN THE SENATE WALKER, WHO HAD PARTICIPATED IN THE RIOTING AT THE UNIVERSITY OF MISSISSIPPI, WAS DESCRIBED AS POSSIBLY A "SICK MAN" WHO "OUGHT TO BE COMMITTED" AND WAS LINKED WITH "VIOLENT SEGREGATIONISTS OR PSYCOPATHS."

SEN. WAYNE MORSE ETC., 2ND GRAF A172WX

BU212PED

1248

A21

TOKYO

A21NU

CORRECTION

OXFORD—Third lead Merédith (A7-8NU) eighth graf counting insert, beginning "Arrests jumped" read: arrests jumped to 112. (Not 150).

AS1214PCS NM

A22

TOKYO—First add night lead Red China (A18) x x x futile."

Peiping has branded as the worst "revisionist" President Tito of Yugoslavia, who only last week entertained Soviet President Leonid I. Brezhnev.

Chou made plain Peiping will stick to its policy of actively aiding "liberation struggles" to spread Communism even at the risk of war. Khrushchev has repeatedly claimed the fight can be won on the economic front with the help of revolutionaries in the various countries.

Chou acknowledged that China was confronted with her own economic difficulties and there were even admissions of some opposition at home with suggestions of a purge.

"The serious natural disasters for the past three consecutive years from 1958 to 1961 and the shortcomings and mistakes in our work have indeed caused us difficulties," he said. But Chou insisted the Chinese people have become stronger since the Communists took over.

R217PED

[fol. 1888]

PLAINTIFF'S EXHIBIT No. 3B

A'25WX

BULLETIN MATTER

WASHINGTON—Second add first lead Walker x x x psychopaths.

Kennedy said these charges also have been filed against Walker:

Conspiracy to incite a rebellion or insurrection.

Conspiracy to hinder federal officers in the performance of their duties.

Assaulting a federal officer.

Justice Department officials said the conspiracy to incite rebellion charge carries a maximum penalty of 20 years in prison and a fine of \$20,000.

Execution of such a conspiracy, as distinguished from the act of conspiring, involves a maximum penalty of 10 years and \$10,000, they said.

The penalty for conspiring to hinder a federal officer could be up to five years in prison and \$6,000 and for assaulting a federal officer could be three years and \$5,000.

The Justice Department said Walker's arrest came at about 2 P.M. EDT today on the outskirts of the strife-torn college town of Oxford, Miss., and an immediate arraignment before U. S. Commissioner Omar Craig was being arranged.

For his first statement on the Oxford situation since last night's bloody rioting, Kennedy stood in a Justice Department corridor in shirtsleeves, surrounded by newsmen.

SEN. WAYNE MORSE ETC., 2ND GRAF A172 WX

BU230PED

A26WX

—U R G E N T—

FOREIGN AID (180)

WASHINGTON, Oct. 1 (AP)—The Senate defeated today an attempt to slash \$785 million from a committee-approved \$4,422,800,000 (B) foreign Aid appropriations bill.

It was only a tentative victory for the Administration in the first skirmish on the big bill for military and eco-

conomic assistance abroad, however, and left senators free to seek reductions in each of the separate items in the measure.

The vote temporarily sustained the recommendations of the Appropriations Committee that the Senate restore \$792,400,000 (M) of cuts totaling \$1,124,400,000 (B) made by the House.

Sen. William Proxmire, D-Wis., had asked the Senate to reject the increases and substitute all the House cuts but \$7.4 million in administrative expenses.

Sen. Allen J. Ellender, D-La., has announced plans to call up an amendment reducing the Committee's recommended \$1,450,000,000 (B) for military assistance at least to the \$1.3 billion voted by the House and slashing the \$1,125,000,000 (B) the Committee recommended for development loans abroad.

Proxmire also offered amendments to restore a House-approved ban on giving any foreign aid to countries which allow their ships to transport military or other supplies to Communist Cuba, as well as another House prohibition against foreign assistance to Poland and Yugoslavia.

BU/PE234PED

A27AT

A27NU

URGENT

FOURTH LEAD MEREDITH ROUNDUP

OXFORD, Miss., Oct. 1 (AP)—Bayonets of the federal government forced a Negro into the University of Mississippi today. Riot troops arrested former Maj. Gen. Edwin A. Walker, who led students in wild charges against Marshals in night long rioting.

The arrest of the controversial general, commander of troop during the Little Rock segregation crisis, came after an outbreak of fresh violence in downtown Oxford that began minutes after James H. Meredith enrolled at Ole Miss.

He was arrested at a roadblock and taken before U. S. Commissioner later today.

In Washington, Atty. Gen. Robert Kennedy said Walker had been taken into custody on charges of inciting rebellion or insurrection. Conviction could bring 10 years in prison and \$10,000 fine.

[fol. 1889] PLAINTIFF'S EXHIBIT No. 3C

A34WX

WASHINGTON—First add foreign aid (A26WX) x x x Yugoslavia.

The vote today was 47-28 to sustain the Committee.

The voting started after Sen. Hubert H. Humphrey, D-Minn., Democratic whip, declared that the House cuts, if allowed to stand, "would be a blow to our national security."

"Never before has this slashing been as ill-timed or ill-conceived as today," he said, "when Communist influence is increasing in the western hemisphere, when Soviet pressure is mounting in Berlin, and when Chinese military, political and economic pressure on southeast Asia is soaring."

ER322PED

A35AT

A35AX (GLANCE) (NU FW)

UNDATED OXFORD-AT-A-GLANCE

BY THE ASSOCIATED PRESS

James H. Meredith enrolled in University of Mississippi under bayoneted rifles of federal government, becoming first Negro enrolled at University at Oxford, Miss.

Violence breaks out anew in downtown Oxford; federalized Mississippi troops fire over heads of angry mob.

New outbreak comes after lull in night-long rioting in which two persons—a newsman and an Oxford resident—were killed.

Atty. Gen. Robert F. Kennedy announced in Washington the arrest today of former Army Maj. Gen. Edwin Walker on charges of inciting a rebellion or insurrection.

Arrests in Oxford jump to 112 and officers say some taken into custody lived as far away as 500 miles.

SF224PES

A36NU

FIRST NIGHT LEAD MEREDITH ROUNDUP (AMS BJT) (300 UP)

BY THE ASSOCIATED PRESS

OXFORD, Miss., Oct. 1 (AP)—Rifle fire echoed in the streets of downtown Oxford today as James H. Meredith, a Negro, ended 114 years of segregation at the University of Mississippi.

Admist the shooting, troops arrested former Maj. Gen. Edwin A. Walker—the man who led the troops during desegregation in Little Rock in 1957 and then decided he was on the wrong side.

Walker led students in charges that failed against the gas launchers of U.S. Marshals during night-long rioting on the University campus (illegible).

Walker led students in charges that failed against the gas launchers of U.S. Marshals during night-long riotin on the un

Walker led students in charges that failed against the gas launchers of U.S. Marshals during night-long rioting on the University campus that cost the lives of two persons and injured 20 others.

The controversial Texan showed up, too, during fresh trouble that broke out today minutes after Meredith's enrollment at the University—the first Negro knowingly admitted in the University's 114-year history.

Troops picked up Walker at a roadblock

Atty. Gen. Robert Kennedy said in Washington Walker had been charged with inciting a rebellion or insurrection. Troops picked up Walker at a roadblock.

Atty. Gen. Robert Kennedy said in Washington Walker had been charged with inciting a rebellion or insurrection. The penalty on conviction: 20 years in prison, \$20,000 fine.

The former general was among 176 arrests, about one third students and the rest non-students. Some lived as much as 500 miles away from this college town.

Meredith, 29-year-old Korean war veteran, registered in a 55-minute routine session with Registrar Robert Ellis, failed to find his first class and drove off with an escort.

Infantrymen ringed the University campus, where last night's gas gumes blanketed the central area.

[fol. 1890]

PLAINTIFF'S EXHIBIT No. 3D

A37NU

THERE WERE THESE OTHER DEVELOPMENTS:

—In Congress, Sen. Wayne Morse, D-Ore., said Walker perhaps is "a sick man. If he is, he ought to be committed . . ." Sen. James O. Eastland, D-Miss., said the Justice Department and U.S. Marshals provoked the campus riot.

—The Justice Dept. disclosed that it had okayed Meredith's campus trip yesterday after Gov. Ross Barnett reportedly telephoned a message of capitulation and assurance of police protection. Barnett, who once vowed to go to jail rather than see Ole Miss integrated, branded reports he had altered his defiant stand as "untrue and completely unfounded."

—Still hanging over the 64-year-old Governor and Lt. Gov. Paul M. Johnson, both of whom have personally blocked Meredith's path to enrollment, was a federal contempt of court citation. The U.S. Circuit Court of Appeals in New Orleans gave them until 11 A.M. tomorrow to purge themselves.

—There was widespread praise for President Kennedy abroad and almost universal denunciation of Gov. Barnett and Mississippi officials. Chairman Harold Blot of the British Labor Party called the attempt to bar Meredith a "blot on western civilization."

Renewed uprisings broke out in the tense town of Oxford where tension mounted as residents and others watched more than 4,000 troops stream into the town of 5,200.

Shouting demonstrators, numbering in the hundreds, hurled pop bottles at military vehicles and at a unit of soldiers—which included a large percentage of Negroes.

Military police fired over the crowd and hurled at least two tear gas grenades to disperse them. Troops occupied the

UNEOW

HM

CM

Military police fired over the crowd and hurled at least two tear gas grenades to disperse them. Troops occupied the courthouse square and cleared the area of civilians. Then, a ring of bayonet-carrying soldiers blocked all routes into the square. Many stores put up a "closed" sign.

A mile away, Marshals had escorted Meredith into Lyceum Hall at 7:50 A.M. A confederate flag flew at half mast outside.

A38NU

Meredith seemed outwardly calm, paid his \$230 cash for tuition, and asked about class routine. He was given a two-room apartment with kitchenette in a residence hall. His subjects will include History, Political Science and English.

A Justice Department spokesman said Marshals will live with him and escort him to class "as long as he is in any danger."

As Meredith left the Registrar's Office, smiling, he said he was at Ole Miss for purely academic reasons, would attend classes only and would not participate in extra-curricular activities.

He was asked if he was happy that the long struggle had met with success.

"No," he replied. "This is not a happy occasion."

Hundreds of jeering students followed him to his first class—Colonial American times.

"You've got blood on your hands," they cried. Soldiers took the ringleaders into custody.

(MORE)

AS141PCS

[fol. 1891]

PLAINTIFF'S EXHIBIT No. 3E

A51NU

NEW ORLEANS—First add first night lead Meredith roundup (A35-38NU) x x x custody.

Walker's arrest came about noon at a military roadblock on the outskirts of the strife-torn Oxford.

At one time today, he marched at the vanguard of a file of soldiers as though he were their inspecting officers. He refused to move after an officer ordered him to do so. Then finally relented when soldiers held their bayonets within inches of his body.

In addition to conspiracy to incite a rebellion or insurrection, charges filed against him include: conspiracy to hinder federal officers in the performance of their duties and assaulting a federal officer.

Circumstances surrounding the fatal shooting of two men during last night's rioting remained a mystery.

One was Paul Guihard, 30, a member of the New York Bureau of Agence France Presse. He was found shot in the back with a .32 caliber revolver near a dormitory not far from the scene of the major rioting. The other victim, Walter Ray Gunter, 23, an Oxford juke box repairman, was shot in the head, also with a .32 caliber bullet.

The scars of the night rebellion lay scattered through the tree shaded campus. There were six completely burned

cars. Twenty others were damaged or had their windows smashed. In the door of the Lyceum Building which the Marshals had ringed during the riot, there were .22-caliber rifle bullet holes. Also the scars of pistol shots.

In Washington, Justice Department Officials indicated Barnett had not kept faith with them. They said he had promised that Meredith and the Marshals would be would be admitted without opposition and that he would "guarantee to preserve law and order with state police or in cooperation with U.S. Marshals."

During the night, the Mississippi Highway Patrol withdrew from the gas-shrouded field of battle. Col. T. B. Birdsong, Patrol Boss, said the patrolmen had defective gas masks. One trooper said their orders were to direct traffic only.

In Jackson, the State Capital, both state and national flags flew at half mast at the Capitol building.

(END ROUNDUP)

RK237PCS

A52NU

U R G E N T

INSERT

OXFORD, Miss., fourth lead Meredith roundup (A27 NU) after third graf "He was x x x later today" insert the following:

Walker waved preliminary hearing before before U.S. Commissioner Omar Craig on a charge of attempting to impede justice. Bond was set at \$100,000 and the Texan had not posted it by mid-afternoon.

In Washington x x x fourth graf A27NU.

RK238PCS

[fol. 1892]

PLAINTIFF'S EXHIBIT No. 3F

A61NU

WITH MEREDITH: WALKER

PRECEDE WASHN DAY (320)

OXFORD, Miss., Oct. 1 (AP)—Maj. Gen. Edwin A. Walker, who led a charge of students against U.S. Marshals at the University of Mississippi last night, was arrested by federal officers today.

He waived preliminary hearing before U.S. Commissioner Omar Craig on a charge of attempting to obstruct justice. Bond was set at \$100,000, which the controversial Texan had not posted by mid-afternoon.

When federal officers took him into custody at a military roadblock on the outskirts of this riot-torn town, Walker told them: "I guess I am in custody."

Walker, as a Major General, commanded federal troops sent into Little Rock, Ark., in 1957 to enforce court ordered public school desegregation. He resigned from the Army after a controversy over a troop indoctrination program in Europe.

Walker walked into the courtroom with a slight smile flickering across his face. Craig advised Walker he could waive the preliminary hearing or be represented by counsel.

"My counsel is not in this state," Walker said. Craig told him he could get competent attorneys in Mississippi. Walker asked for and received permission to leave the court momentarily.

He returned, still smiling and asked: "Is it proper to ask that if I waive this hearing, I will be assured that it (his trial comes back to Mississippi?"

Craig told him the trial would be held in U.S. District Court in Mississippi.

"I waive this hearing," Walker said.

Urging a firm stand by Mississippi in the face of federal pressures leading up to Negro James H. Meredith's enrollment at Ole Miss today, Walker had promised last week to deliver "tens of thousands" of volunteers for the final showdown.

But in the end, his role in the resistance on the campus last night was to lead several hundred students storming a line of Federal Marshals guarding the Administration Building. The Marshals turned them back with tear gas.

In Washington, Atty. Gen. Robert Kennedy had announced earlier that Walker would be charged with inciting rebellion or insurrection. Conviction carries a penalty of 20 years imprisonment and a fine of \$20,000.

The penalty for ATGTM obstruct justice could be as much as conviction carries a penalty of 20 years imprisonment and a fine of \$20,000.

The penalty for attemptee Conviction carries a penalty of 20 years imprisonment and a fine of \$20,000.

The penalty for attempting to obstruct justice could be as much as five years in prison and a \$5,000 fine.

RK/AS328PCS

A6—

[fol. 1893]

PLAINTIFF'S EXHIBIT No. 3G

A78NU

A78NU

2ND NL MEREDITH ROUNDUP (AMS BJT) (A36NU)
(400)

BY THE ASSOCIATED PRESS

OXFORD, MISS., Oct. 1 (AP)—Battle-ready troops continued to pour into Oxford today as James H. Meredith, a Negro, finally enrolled and went to class at the all-white University of Mississippi.

While Army gunfire—with rifles pointed skyward—and tear gas smashed riots in downtown Oxford, troops arrested former Maj. Gen. Edwin A. Walker.

Walker, who last night led a charge of students against Federal Marshals on the Ole Miss campus where two men were killed in nine hours of rioting, waived a preliminary hearing on charges of trying to obstruct justice. Commissioner Omar Craig held him in \$100,000 bond.

The controversial Texan—who led federal forces in the 1957 Little Rock desegregation crisis, but changed sides because he said he was wrong—also showed up in renewed skirmishing in the college town today. Troops took him into custody at a roadblock.

In mid-afternoon, a caravan of 92 vehicles, carrying mostly military police, rolled into Oxford. Units of the crack 82nd and 101st Airborne Divisions landed at the Oxford airport, and at Columbus, fresh troops of the 1st Airborne Battle Group of the 328th Infantry disembarked after flying from Ft. Campbell, Ky.

Gov. Ross Barnett, who once vowed to go to jail rather than see Ole Miss integrated, called for an end to violence. Law and order must prevail "even though our state has been invaded by federal forces," Barnett said in a broadcast from Jackson this afternoon.

He told Mississippians not to leave their hometowns. To out-of-states who had rushed to Oxford, Barnett said, "Please go home, and I say this with great emphasis."

It was Barnett's third statement in 24 hours. Late yesterday, Barnett said Mississippi was surrounded and overpowered. His "calm judgment" abhorred any ensuing bloodshed, he said.

Many believed it a statement of concession. The Justice Dept. said it had okayed Meredith's campus trip yesterday after Barnett telephoned assurance of police protection.

Late last night, Barnett issued a second statement saying reports he had yielded were untrue. "We will never surrender," he had said.

In addition to two dead in the night-long campus rioting 20 were injured. In Washington, the Justice Department reported no one had been killed or hurt from gunfire from the weapons of federal troops.

On the campus and in Oxford, military police and infantrymen—with rifles and bayonets—arrested 176 persons, about one-third students. Some lived as much as 500 miles away.

A79NU

Meredith's enrollment brought dismay at Ole Miss. Many students were seen leaving with packed suitcases. A reliable source in the student housing office said more than half the students in the dormitories had check out.

In New Orleans, Jack Greenburg, attorney for the National Association for the Advancement of Colored People, told the New Orleans States-Item a second Negro—a girl—is in the process of applying for entrance into the University of Mississippi.

Meredith, 29-year-old x x x 8th graf, eliminating 12th graf: "The justice x x x unfounded."

RK/AS443PCS

[fol. 1894]

PLAINTIFF'S EXHIBIT No. 3H

A162

URGENT

FOURTH NIGHT LEAD MEREDITH ROUNDUP (240)

OXFORD, MISS., Oct. 1 (AP)—Hordes of combat-ready troops clamped rigid control on this seething southern town tonight after James H. Meredith, a Negro, ended segregation at the University of Mississippi.

Bent on smothering continued riots that took two lives last night and led to today's arrest of former Maj. Gen. Edwin A. Walker, helmeted troops patrolled with loaded rifles and fixed bayonets.

The Army named Lt. Gen. Hamilton Howze of Ft. Bragg, N.C., to head the massive buildup of nearly 10,000 Army troops. Observers said appointment of the 3-Star General may mean there will be more soldiers in the state than were ever assembled in peacetime.

Military police and infantrymen patrolled Oxford with loaded rifles and fixed bayonets. They imposed tight security measures on the Ole Miss campus.

A163

Soldiers permitted no outsiders on the grounds. They searched everyone entering the gates. They kept the numbers of milling students under 100—scattering them.

Scattered arrests persisted into the night. Soldiers broke out tear gas to quash one demonstration of about 30 brick-throwing students near a fraternity house. Troops caught a man wearing a white-hooded garment to his waist and carrying a home-made gas mask.

Federal forces arrested at least 39 persons tonight—most of them youths taken in custody at campus roadblocks. The total brought the arrest number to 215 since the rioting began last night. Many have since been turned loose.

For the most part, quiet settled over Oxford as night fell. The darkness ended a day marred by a downtown riot quelled by rifle fire into the air and tear gas.

Walker, who x x x 4th graf 3rd night lead (A120NU).

UM957PCS NM

A164 (AGYS & RADIO OUT)

ADVANCE FOR AMS OF SUNDAY, OCT. 7—FROM
AP NEWSFEATURES

(ADVANCE) VATICAN CITY—First add Vatican II (A161) x x x Church itself.

The meeting of Catholic leaders from over the world that opens Oct. 11 is called the Second Vatican Ecumenical Council. It is only the second such held by the Roman Catholic Church since the Reformation.

It comes at a time of stress and strain in a fast-changing world that has exerted its own forces against the hierarchy and theology of the Church.

Yet it is with quiet excitement, not anxiety, that the biggest Church Council of all time is meeting.

After three years of preparation the Council is just a few days away.

Throughout the Eternal City, hotels are filling up with bishops and theologians. Pontifical colleges that dot the Seven Hills are hosts to high-ranking clerical guests from distant continents.

Banks of green upholstered seats yawn the length of St. Peter's and, flanking them, galleries hung in red damask.

Marble workers before the Basilica's 30-foot bronze doors are machine-polishing a new pavement in which the coat of arms of Pope John XXIII has been imbedded. At least half a million dollars has been spent to put the Basilica in readiness.

The religious goods shops along the broad Roman Avenue that stretches away from St. Peter's Square are stocked with newly struck commemorative medals bearing the image of Pope John and the words "Vatican II."

The last such worldwide meeting was in 1870, when the first Council ever held at the Vatican proclaimed the doctrine of Papal Infallibility—that a Pope is without error when speaking "Ex Cathedra," that is, as Pope, to the Whole Church, on a matter of faith or morals.

[fol. 1895]

PLAINTIFF'S EXHIBIT No. 31

A149KX

CORRECTION

SAN FRANCISCO—Nixon-Brown A131 ninth graf
 "Nixon said x x x the loan" read it x x x had no part of
 and no interest in. (Rephrasing)

THE AP

VX903PCS

A150KX

WITH OXFORD (140)

DALLAS, TEX., Oct. 1 (AP)—A 22-year-old man transporting a small arsenal, was arrested yesterday en route to Mississippi to join former Maj. Gen. Edwin A. Walker, police said today. Officers said the man had been a worker in Walker's unsuccessful campaign to become Governor of Texas.

Dallas police charged the man, Ashland F. Burchwell of Dallas, with carrying prohibitive weapons. The FBI charged him with interstate transportation of a switch blade knife.

Burchwell was quoted by police as saying he served under Walker in Germany and helped compile the former general's "Pro-Blue" program for which Walker was reprimanded by the Army.

Police seized the following arms and ammunition: 1 37-magnum pistol, fully loaded; 1 303 Army-style rifle, fully loaded; 2,000 rounds of 30-06 ammunition; 3 22-caliber pistols; 1,000 rounds of 22-caliber ammunition; 14 rounds of 303 ammunition; 1 switchblade knife; blankets and changes of clothing.

VX906PCS

A151KX

INSERT

SAN FRANCISCO—Landsberg's Nixon-Brown A131 insert after 7th graf "the loan x x x statements."

The questioner was one of the delegates to the 62nd Annual Convention of the United Press International Editors and Publishers before whom the two candidates made their face to face appearance.

The questioner etc. 8th graf.

GC908PCS

1264

A152KX

(140)

WIT

A152AX (COURT)

A152

EDITORS:

NEW YORK—Lord Home speech (A140) delivered.
Delete. "In a prepared speech" in 3rd graf.

THE AP, OCT. 1

FV1110PED

[fol. 1896]

PLAINTIFF'S EXHIBIT No. 3J

A132

URGENT

Springfield, Mo.—Secnd add precede Walker (A116, 122) x x x with Walker.

When officers took Walker into custody on the outskirts of Oxford, Walker told them, "I guess I'm in custody."

Walker, as a Major General x x x 7th graf under Oxford dateline.

FV10PED

A133WX

(130) INSERT

Washington—NL Meredith A50WX insert after 6th graf:

A White House spokesman etc. x x x x Justice Department.

About 4 P. M. (EDT) Salinger told newsmen they could expect nothing further from the White House today. He said if there were any announcements of new developments they would be made by the Pentagon or the Justice Department.

Asked if martial law would be declared in Oxford to prevent further violent disorders, Salinger replied that "the commander on the scene . . .

Salinger did not deny that the President had talked by telephonic violent disorders, Salinger replied that "The commander on the scene has the authority to do what needs doing to maintain law and order."

Salinger did not deny that the President had talked by telephone during the day with Gov. Ross Barnett of Mississippi.

"I cannot comment on that," he said.

Kennedy remained in etc., 8th graf (eliminating 7th graf; Salinger withheld x x x last night).

SR1004PED.

A134WX

With Meredith (150)

Washington, Oct. 1 (AP)—Defense Department officials shrugged their shoulders and replied, "We haven't figured it out yet," when asked today about the cost of keeping some 6,000 troops and U. S. Marshals in Mississippi.

The force has been assembled to enforce court orders that Negro James H. Meredith be enrolled as a student at the University of Mississippi.

In the past, in similar cases, the department has been reluctant to estimate such costs. They point out that regular army troops would be on duty anyway and would be using up food and supplies somewhere else.

Official estimates say some 500 U. S. Marshals, about 2,600 regular troops and 2,900 National Guardsmen are assigned to the operation in Oxford, Miss.

The Justice Department said it had no figures yet but the cost for Marshals would be only overtime pay, plus transportation outlays subsistence allowances.

At the time of the desegregation operation in Little Rock, Ark., public schools the army figured its cost at \$4.7 million, which included about \$95,000 a day for pay and other costs of the Federalized National Guard.

SR1008PED

A135WX

Lemnitzer—Taylor (100)

Washington, Oct. 1 (AP)—The nation's new commander in Europe, Gen. Lyman L. Lemnitzer, was decorated by President Kennedy today for his services as Chairman of the Joint Chiefs of Staff. A few minutes later his successor on the Joint Chiefs, Gen. Maxwell D. Taylor, was sworn into office.

Both ceremonies were in the White House garden before an assemblage of distinguished military officers, former Chairman of the Joint Chiefs, and high government officials.

Atty. Gen. Robert F. Kennedy gave the oath to Taylor. The occasion coincided with the start of Lemnitzer's duty as Commander of U. S. Forces in Europe. He has been named to become Supreme Commander of the North Atlantic Treaty Organization * * *

[fol. 1897]

PLAINTIFF'S EXHIBIT No. 3K

A120NU

Third night lead Meredith wrapup

By the Associated Press

Oxford, Miss., Oct. 1 (AP)—Thousands of helmeted troops poured into this embattled college town tonight, hours after James H. Meredith, a Negro, smashed the University of Mississippi's segregation barrier.

Determined to prevent further rioting that took two lives last night, soldiers arrested 38 persons. Most of them were youths caught at roadblocks set up around the campus.

For the most part, quiet settled over Oxford as night fell. The darkness ended a day highlighted by the arrest of former Gen. Edwin A. Walker and marred by a down-

town demonstration which was quelled by rifle fire in the air and by tear gas.

Walker, who last night led a charge of students against Federal Marshals on the Ole Miss campus, was arrested on four counts including insurrection against the United States.

He was flown to the Federal Medical Center at Springfield, Mo., when he failed to post \$100,000 bond. The hospital has facilities for the systematic psychiatric care of prisoners.

Walker also was present during skirmishing at the courthouse square today in Oxford. The controversial Texan, who led the troops in the Little Rock school desegregation crisis in Little Rock in 1957 and said later he was on the wrong side then, was taken into custody at noon at a roadblock.

At the Capital in Jackson, Gov. Ross Barnett, who once vowed to go to jail rather than see Ole Miss integrated, blamed the disorder on the Marshals. He said they were "inexperienced, nervous and trigger happy."

In remarks prepared for a television statement tonight, Barnett said the Marshals fired tear gas point blank at State Highway Patrolmen who he said were successfully moving back a crowd of students. Someone tossed a pop bottle. The Marshals opened up, Barnett said, adding that five patrolmen were treated for effects of the gas.

"This was the direct cause of violence on the campus," he charged.

Earlier, Barnett, under an 11 A.M. (CST) Tuesday deadline to purge himself of contempt of court charges, called for an end to violence. Law and order must prevail, he said in a broadcast, "even though our state has been invaded by federal forces."

All day long, caravans of military vehicles roared into Oxford. They carried crack units of the 82nd and 101st Airborne Divisions. Fresh troops of the 1st Airborne Battle Group of the 328th Infantry landed at Columbus from Ft. Campbell, Ky., to augment the Mississippi contingent.

A121NU

Wearing battle fatigues and equipped with bayonets and gas masks, the soldiers sealed off the campus and courthouse square. Jeeps patrolled the streets.

Federal forces arrested 176 persons, about one-third students. Edwin Guthman, a Justice Department spokesman, said all but about 25 of those in custody were released. The government has the best evidence against them and charges were being prepared, he said.

Guthman said they were being kept in confinement, but declined to say where. Oxford has no jail.

Charges will deal with conspiracy to obstruct justice and to interfere by force with the performance of a court, Guthman said.

Some of those picked up lived as far as 500 miles away.

In Washington, Sen. James O. Eastland, D-Miss., directed the Senate Judiciary Committee to investigate the Ole Miss situation. Eastland, Committee Chairman, and other Mississippi members of Congress aid the Justice Department and the Marshals ignited the mob violence.

In addition to the two killed in the night-long campus rioting, 20 persons were hurt. The Justice Department reported no one had been killed or hurt from gunfire from the weapons of federal troops.

Meredith's x x x pick up in 2nd NL Meredith Roundup, at A79NU.

A8734PCS

EQ

A122KX'

BULLETIN MATTER

SPRINGFIELD, MO.—First add Walker (A116) which make precede Oxford x x x Springfield tonight.

[fol. 1898]

PLAINTIFF'S EXHIBIT No. 3L

A97T

A97NU

NU

URGENT

OXFORD, MISS.—First add 2nd hl Walker (A82NU) (which may carry the byline by Relman Morin) x x x in custody.”

Walker, as a Major General, commanded federal troops sent into Little Rock, Ark., in 1957 to enforce court ordered public school desegregation. He resigned from the army after a controversy over a troop indoctrination program in Europe.

Charges against Walker were:

- (1) Assaulting, resisting, or impeding U.S. Marshals.
- (2) Conspiring to prevent discharge of duties.
- (3) Inciting, assisting and engaging in insurrection against the authority of the U.S.
- (4) Conspiring to oppose by force the execution of any law of the U.S.

Conviction on the fourth count alone could bring a maximum fine of \$20,000 and a prison sentence of 20 years.

Walker walked x x x pick up 5th graf with Meredith: Walker W61NU) (Eliminating 12th and 13th graf: “In Washington x x x \$5,000 Fine.”

A98

INSERT

Washington—Cuba conference A86 insert after third graf “the declaration x x x last week.”

In Havana, the Castro regime announced Cuba's President Osvaldo Dorticos plans to make a speech to the U.N. General Assembly in which he will accuse the United States of aggression against Cuba. He will fly to New York this week.

Just what the x x x 4th graf.

FVSC7PED

A99WX (TOP)

A99

Newspage playoffs (210)

San Francisco, Oct. 1 (AP)—The San Francisco Giants defeated the Los Angeles Dodgers today, 8-0, in the first game of their best-of-three playoff series to determine the winner of the National League Pennant. The two teams finished in a tie for first place at the end of the regular season yesterday.

The winner of the playoffs will meet the New York Yankees in the World Series starting Thursday at the park of the playoff winner.

Willie Mays of the Giants hit two home runs to extend his season total of 49, high for the Major Leagues. Billy Pierce, a 35-year-old left-hander, pitched for the Giants and held the Dodgers to three hits.

The Dodgers have been in a bad batting slump and now have gone 30 straight innings without scoring a run. They were shut out by the St. Louis Cardinals in their final two regular-season games.

Jim Davenport and Orlando Cepeda also hit home runs for the Giants. The Dodgers used six pitchers in an effort to stem the Giants' hitting barrage, but were unsuccessful. Dodger ace Sandy Koufax, who had been bothered with an injured finger for more than two months, started for the Dodgers and lasted less than two innings.

The playoffs now switch to Los Angeles for tomorrow's and, if necessary, Wednesday's game. Jack Sanford, who won 24 games and lost seven during the season, will pitch for the Giants. Stan Williams, whose record is 13 victories and 12 defeats, will pitch for the Dodgers.

FV817PED

[fol. 1899]

PLAINTIFF'S EXHIBIT No. 3M

Shed to a tree-lined campus normally wrapped in quiet and peace.

The rioting began soon after dusk. Students had milled about on the campus for several hours, but the effronteries they hurled at Federal Marshals arrayed shoulder to shoulder around the administration building had been more in fun and frustration than in maliciousness.

Even the Marshals, their tear gas ready, smiled at the students jests and jeers.

Confederate flags—romantic symbols of a lost cause of a century ago—were waved by laughing and cheering students, as if they were on parade.

But as time went by, the talk became louder and rougher.

Several students smashed a photographer's camera; others smashed the windows of a car. Still others turned on an army truck and sought to set it afire.

When this took place, the strong contingent of Marshals moved quickly into action. They put on their gas masks and began firing tear gas—indiscriminately, in the words of several persons who got the first strong whiff of it.

The ringleaders and their followers scattered.

Many soon regrouped, however, and followed former Maj. Gen. Edwin Walker in a charge against the Marshals ringing the administration building.

The students, and outsiders in their ranks, hurled bricks and pop bottles at the Marshals, who laid down a heavy tear gas barrage.

The charge faltered and familed. Walker then stood on the Confederate monument not far from the administration building and addressed his followers.

"If you can't win, go home," he declared. "Don't stay at the University. But let's not quit; we can win."

The tear gas fumes and smoke eddied about the campus. Students and outsiders and onlookers alike clasped hands or handkerchiefs to smarting eyes and nose. The smoke carried an eirie sheen against the dark night.

A63NU

Shots rang out. There was the surge and flow of those uncertain which way to turn. Taunts were spat. Ugly words were used.

A detachment of the mob, peopled by both students and outsiders, used a bulldozer in an effort to smash through the line of Marshals. Tear gas beat back the sally, and the bulldozer was abandoned.

A fire truck that had followed the bulldozer was put out of action and Marshals dragged four persons from the vehicle and roughed them up. One of the men who had driven the bulldozer was arrested. So were others.

Irregular firing cut through the night.

Many of the Marshals and troops went inside the administration building.

Some members of the mob used home-made zip guns triggered by strong rubber bands. Screws, bolts, nuts and rocks were the ammunition for these weapons.

The firing of another kind kept up.

"They've got something that sounds like a high-powered rifle out there," one Marshal said. "And somebody's emptied a pistol—pow, pow, pow—as fast as he could pull the trigger.

He said the person with the pistol was firing at the Marshals. "I could hear the bullets bouncing off the building."

Neither the Marshals nor the troops returned the fire.

A group described as teen-agers raided the science building and made off with various chemicals.

"Molotov cocktails"—an inflammable liquid primed with a burning wick—were hurled. Three cars were burned.

L. L. Love, Dean of Students at the school, described the violence as far beyond anything officials at the University had expected.

Reinforcements continued to reach each side well after midnight. Bayonets gleaned.

Those in the mob yelled their taunts at Marshal and soldier alike.

O yelled: "Why don't you go to Cuba?" Some one else screamed the word "Nazi." And another: "Come on out and fight like a man."

Above the babble and clamor and sharp through the sheeting of tear gas smoke a young student called out: "You're treating us like

[fol. 1900]

PLAINTIFF'S EXHIBIT No. 3N

A169WX (JUSTICE DECN)

(800) Mississippi—Justice

Washington, Oct. 1 (AP)—The decision to move James H. Meredith onto the University of Mississippi campus last night was made after Gov. Ross Barnett telephoned the Justice Department a message of capitulation and assurances of police protection, a Department spokesman said today.

The spokesman also said that charges of insurrection—punishable by up to 20 years in prison and a \$20,000 fine—were being considered against some of those arrested in the bloody rioting on the campus.

It was understood that former army Maj. Gen. Edwin Walker was among those who might be arrested.

Jack Rosenthal, Assistant Information Officer at the Justice Department, told reporters that Barnett telephoned Atty. Gen. Robert F. Kennedy three or four times yesterday morning and agreed:

1. That he would see that U.S. Marshals and Meredith would be admitted to the campus without opposition.

2. He would "guarantee to preserve law and order with state police or in cooperation with U.S. Marshals" against any violence which might erupt after the 29-year-old Negro arrived at the campus.

Rosenthal said that by mid-morning today about 35 persons had been arrested in connection with the violence and more were being taken into custody.

He said several thousand troops were in the area and "more are available."

"Things in the town are in control," he said.

Attorney General Kennedy was at the White House from 9:45 P.M. until early today. He spent the rest of the night at his Justice Department headquarters, receiving additional reports from Mississippi and planning the government's next move to endorce court orders that Meredith be enrolled.

The enrollment was accomplished today.

Still ahead is court disposition of the cases of Barnett and Lt. Gov. Paul Johnson, who were found in civil contempt of court for disobeying the orders that Meredith be enrolled.

A Justice Department chronology of events on the riot-torn campus yesterday was, in effect, an accusation that Barnett's public statements to Mississippi citizens were sharply at variance with those he made in private conversations with Kennedy.

The chronology, which Rosenthal said was pieced together from Department officials in Washington and at the riot scene, ran like this:

At 10:45 A.M. (EDT) Barnett, in his last morning telephone call to the Attorney General, agreed to send state police chief T. B. Birdsong to Oxford to confer with a Justice Department representative to work out specific arrangements before Meredith's entry to the campus.

A170WX

President Kennedy was advised of this plan.

Birdsong met late in the afternoon with Joseph Dolan, Assistant Deputy Attorney General.

Asked whether additional help would be needed from the Federal Government to control crowds at the University campus, Birdsong replied:

"No, we can take care of it ourselves."

Shortly after 6:30 P.M. (EDT) Birdsong and other state police escorted the first group of Marshals to the campus.

Meredith, arriving by plane at Oxford from Memphis, Tenn., was transported from the airport to the campus in a state police car along roads patrolled by Mississippi officers.

Shortly thereafter Barnett issue a statement that Meredith had been landed on the campus by helicopter.

"That's inaccurate and the Governor knew it was inaccurate when he

[fol. 1901]

PLAINTIFF'S EXHIBIT No. 4-A

(HERE'S A NEW TOP ON THE RIOT STORY)

(OXFORD, MISSISSIPPI)—Rifle fire echoed in the streets of Oxford today as a Negro, James M. Meredith, ended 114 years of segregation at the University of Mississippi.

(In the midst of the shooting, troops arrested former Major General Edwin A. Walker—the man who led the troops in the 1957 Little Rock integration disturbance. Since then Walker has decided he was on the wrong side.

(Walker led students in futile charges against law lauchers in the hands of U-S Marshals during night-long rioting. Two persons were killed and 20 injured.

[fol. 1902]

PLAINTIFF'S EXHIBIT No. 4B

APR NU '17

BULLETIN

HERE'S A BULLETIN FROM THE ASSOCIATED PRESS:

(MORE TROOPS)

(OXFORD, MISSISSIPPI)—Units of the crack 82nd and 101st Airborne Division began landing at the Oxford

Airport today (Monday) to move onto the strife-torn University of Mississippi campus.

The paratroopers were in at least regimental strength. Giant air force transport planes were landing almost continuously at the airport on split second timing, under direction of an air force mobile control tower set up on the runway.

Troops from the 101st "Screaming Eagle" Division from Ft. Campbell, Ky., had their own transports. The 82nd Division from Ft. Bragg, were being loaded in 3rd Army trucks already at Oxford.

—O—

RK408PCS 10/1

Attorney General Kennedy had announced earlier HT Walker would be charged with inciting rebellion or insurrection. Conviction for that carries a penalty of 20 years imprisonment and a fine of \$20,000.

SPORTS

MORE PLAYOFF RUNNING

The Dodgers failed to score again in the seventh inning as Pierce set them down in order. When the zero went up on the scoreboard, the Dodger streak of scoreless innings was extended to 28.

The only Giant activity in the seventh was a two out single by Hiller.

Units of the crack 82 and 101st Airborne Divisions have begun landing at the airport in Oxford, Mississippi. They are set to move onto the campus of the University of Mississippi.

(BARNETT CALLS FOR PEACE . . .)

Mississippi Governor Ross Barnett has called for an end to violence in the University case. He says law and order must prevail. And he urged people who traveled to the Oxford area from other states to please go home.

(MEREDITH IS ENROLLED . . .)

The important issue was settled quickly and quietly in the morning . . . Negro James Meredith was enrolled at the University of Mississippi, breaking more than 100 years of segregation at the school. He paid his \$230 cash for tuition and asked about class routine. He was assigned to a campus apartment. And it was said U-S Marshals will live with him and escort him to class as long as he is in any danger.

An attorney for the National Association for the Advancement of Colored People says a second Negro is in process of applying for

[fol. 1903]

PLAINTIFF'S EXHIBIT No. 4C

APRNU21

HERE IS THE NIGHT OWL FINAL NEWS OF LOUISIANA AND MISSISSIPPI:

(FIVE STAR FINAL FORECAST)

Louisiana, South Mississippi: Clear to Partly Cloudy and Cool Tuesday and Wednesday. High Tuesday 72-80.

Extreme Southwest Alabama: Partly Cloudy and Cool Tuesday and Wednesday. High Tuesday 76-80.

New Orleans and Vicinity: Partly Cloudy and Cool Tuesday and Wednesday. Low tonight 64-68. High Tuesday 76-79.

(Coastal)

Port Arthur, Texas, to Pensacola, Florida; Northerly winds 10-20 knots (11-23 mph) and Partly Cloudy weather Tuesday and Wednesday.

—O—

(BRANTON)

(Baton Rouge)—State Rep. Parey Branton of Webster Parish says the Kennedys and the National Democrats will attempt to use the University of Mississippi case to encourage registration of every eligible Negro.

Branton led a delegation to Mississippi yesterday (Sunday) to offer aid to Governor Ross Barnett in his battle against integration of Ole Miss.

Branton said today that with the "Fall of Mississippi, the last vestiges of hope for the individual states is gone. Socialist federalism as advocated by Kennedy and his supporters will now run rampant," he added.

—0—

(WITH OXFORD)

(Memphis)—The Federal Aviation Agency today issued a special regulation to control air traffic at the overtaxed Oxford, Mississippi Airport.

It required all planes flying under 5,000 feet within a 10-mile radius of the airport to obtain special permission from the Traffic Control Center at Memphis Municipal Airport.

—0—

(WITH OXFORD)

(Dallas, Texas)—Police of Dallas, Texas, say a 22-year-old man transporting a small arsenal, was arrested yesterday en route to Mississippi to join former Maj. Gen. Edwin Walker.

Officers said the man had been a worker in Walker's unsuccessful campaign to become Governor of Texas.

Dallas police charged the man, Ashland Burchwell of Dallas, with carrying prohibitive weapons. The FBI charged him with interstate transportation of a switch blade knife.

Burchwell was quoted by police as saying he served under Walker in Germany and helped compile the former General's "pro-blue" program for which Walker was reprimanded by the Army.

Police seized arms and ammunition, including one 37-mangum pistol, fully loaded; one 303 Army-style rifle, fully loaded; 2,000 rounds of 30-06 ammunition; three 22-caliber pistols; and 1,000 rounds of 22-caliber ammunition.

—0—

(COURT)

(Jackson, Mississippi)—The Mississippi Supreme Court today (Monday) upheld the manslaughter conviction of Sharkey County Negro Henry Shields in the shooting of his sister-in-law.

Shields appealed his conviction and 20-year sentence in the June, 1961 death of Inez Gibson.

—0—

(CLAYTON-GUARD)

(Washington)—The Defense Department today released Brig. Gen. Claude Clayton of the Mississippi National Guard from active duty in the integration crisis so he can go back to the federal bench.

Clayton is U.S. District Judge for Northern Mississippi. He was called up with the rest of the Mississippi guardsmen when President Kennedy federalized the state guard in the integration crisis at the University of Mississippi.

—0—

(XGR)

(Atlanta)—A resolution offered in the Georgia Senate to commend Mississippi Gov. Ross Barnett for defiance of court-ordered

[fol. 1904]

PLAINTIFF'S EXHIBIT No. 4D

Confederate flags—Romantic symbols of a lost cause of a century ago—were waved by laughing and cheering students, as if they were on parade.

But as time went by, the talk became louder and rougher.

Several students smashed a photographer's camera; others smashed the windows of a car. Still others turned on an Army truck and sought to set it afire.

When this took place, the strong contingent of marshals moved quickly into action. They put on their gas masks and began firing tear gas—indiscriminately, in the words of several persons who got the first strong whiff of it.

The ringleaders and their followers scattered.

Many soon regrouped, however, and followed former Maj. Gen. Edwin Walker in a charge against the marshals ringing the Administration Building.

The students, and outsiders in their ranks, hurled bricks and pop bottles at the marshals, who laid down a heavy tear gas barrage.

The charge faltered and familed. Walker then stood on the Confederate monument not far from the Administration Building and addressed his followers.

"If you can't win, go home," he declared. "Don't stay at the University. But let's not quit; we can win."

The tear gas fumes and smoke eddied about the campus. Students and outsiders and onlookers alike clasped hands or handkerchiefs to smarting eyes and nose. The smoke carried an eerie sheen against the dark night.

[fol. 1905]

PLAINTIFF'S EXHIBIT No. 4E

AP7

FIRST FIVE MINUTE SUMMARY

Here is the latest news from the Associated Press:

All indications are that the Federal Government is gaining the upper hand in its battle to enforce court orders for admission of a Negro, James Meredith, to the University of Mississippi.

President Kennedy notes that Meredith tonight is in residence on the University campus, although not enrolled

in the school. The President says this has been accomplished without the use of U-S troops. And he expresses hope troops will not have to be used.

Kennedy says federal court orders in the case are beginning to be called out. He stresses that laws of the U-S must be obeyed and that includes court rulings.

The President's remarks came in a radio and T-V address to the nation.

Governor Ross Barnett does not flatly state he's yielding in his dispute with the Federal Government. But he does say "we are now completely surrounded by Armed Forces and we are physically overpowered." He adds: "Surrounded on all sides by the Armed Forces and oppressive power of the U-S, my courage and my convictions do not waiver. My heart still says 'never,' but my calm judgment abhors the bloodshed that will flow."

The Mississippi Governor says the state will continue to fight the Meredith case and similar cases through the courts. And he says federal officials are destroying the U-S Constitution, trampling on Mississippi sovereignty and stripping the state of honor and respect.

Federal Marshals have put down two riots by students on the University of Mississippi campus. They used tear gas both times.

The second riot was led by former Major General Edwin Walker, who directed a charge of brick-throwing students against the marshals. Walker said his student force would regroup and charge again.

Meredith, under heavy guard of U-S Marshals, flew to Oxford and went by car to the University campus. School officials reported he was given an apartment on the campus but was not enrolled Sunday night because it was the Sabbath. U-S Marshals—some 288—were lined up around the University's Administration Building.

A number of U-S Senators of both parties express approval of President Kennedy's speech. And one southerner, Senator Allen Allender of Louisiana said the law must be obeyed whether good or bad.

But a number of Mississippi congressman attack the speech. And Democratic Senator James Eastland of Mississippi said he disagrees entirely with the President's position.

Senate Democratic leader Mike Mansfield said, "Thank God that reason, understanding and law seem to have prevailed.

HERE IS A BULLETIN FROM NEW YORK

Some 75,000 longshoremen quit work at midnight in east and gulf coast ports from Maine to Texas. Formal announcement of the work stoppage was made by the President of the International Longshoremen's Association, Captain William Bradley.

The chief U-S delegate to the U-N, Adlai Stevenson, said the Mississippi integration case has no doubt impaired the image of the U-S overseas. On his T-V show (over ABC), Stevenson said the (Illegible)

[fol. 1906]

PLAINTIFF'S EXHIBIT No. 4F

The federal action to register a Negro student James Meredith at the all-white University has touched off violence that even tear gas has been unable to control. Another newsmen—Bill Crider of the Associated Press—has been wounded in the rioting. Crider says three or four other persons also have been shot. Crider reports seeing seven or eight teenagers shooting guns.

More than 1,700 troops are standing by in Memphis, Tennessee to move to the aid of the riot-battling Federal Marshals in Oxford. The Memphis Naval Air Station says they are ready to move to the University—70 miles to the south—if called for by the Justice Department.

Mississippi National Guard Headquarters said Sunday night the 108th Armored Cavalry Regiment at Tupelo, Mississippi has been ordered to move immediately into

Oxford where students are rioting on the University of Mississippi campus.

One of those injured in shotgun blasts fired during the rioting is a U-S Marshal. He is described as in critical condition in the University infirmary.

He was shot in the throat.

The Infirmary is situated in the campus area under siege and infirmary attendants say they are unable to get an ambulance to take the wounded man to the hospital. Efforts to summon a doctor for the marshal also were futile.

One of the riots Sunday night in Oxford was a charge of brick-throwing students led by former Major-General Edwin Walker. Walker resigned from the Army after being reprimanded for trying to influence the votes of soldiers.

Meredith—protected by a large force of Federal Marshals—had earlier been moved onto the Mississippi campus where he has been assigned a room. Indications are that he probably will be enrolled at the University Monday.

The Oxford violence erupted almost at the very moment that President Kennedy was speaking to the nation and urging the Mississippi students to maintain order. The President's nine-minute, nationwide address stressed that Americans have the right to disagree with the law—but not to break it.

The rioting Sunday night followed shortly after Mississippi Governor Ross Barnett indirectly admitted defeat in his efforts to prevent integration at the University. The Governor said state forces are surrounded and overpowered.

Longshoremen along the east coast from Maine to Texas have gone on a work stoppage. The International Longshoremen's Association says picketing will start at once at piers in the New York-New Jersey area. Leaders of the 75,000-member union say the walkout is the result of a lockout involving the lack of a union contract.

American and Continental Can Companies have signed two-year strike-free contracts with the United Steelworkers of America. The contracts provide for improvements in benefits, but no wage increase.

A tropical storm 420 miles east of Puerto Rico may cause a delay in the six-orbit flight of astronaut Walter Schirra—scheduled now for Wednesday between 8 A.M. and 10 A.M. (EDT). The surprise storm is packing winds up to 54 miles-an-hour and may cross the impact area for Schirra's third orbit. A weather bureau advisory says the disturbance is expected to become a hurricane during the next few hours.

[fol. 1907]

PLAINTIFF'S EXHIBIT No. 4G

was heard frequently and, at one point, [four illegible words] and federalized National Guardsmen pinned down in the Administration Building.

(MEREDITH)

The shooting and throwing of bottles, bricks and stones began while President Kennedy was explaining to the nation over Radio and T-V why he took the action he did in Mississippi. Before this, Mississippi Governor Ross Barnett indirectly had conceded that the State could not cope with Federal forces to prevent enrollment of Negro James Meredith. It is indicated that Meredith will enroll today.

(TROOPS).

As the situation grew worse, Federal troops were ordered to the riot scene from a number of points. The shooting stopped abruptly around the Administration Building as 200 military policemen marched onto the campus. But later, the rioters threw rocks at the military police. The army order called for some 1,400 soldiers to move out of a staging area near Memphis and head for Oxford. Another 1,100 combat troops from Fort Benning, Georgia were ordered to by-pass Memphis and go directly to Oxford. About 500 were summoned from Fort Hood, Texas.

—DASH—

(One newsman was killed and another newsmen and several officers were wounded in the campus rioting. One

U-S Marshall was wounded critically as shooting broke out at several places on the campus. Killed was a reporter for the French Press Agency and London Daily Sketch, Paul Guihard. Associated Press newsman Bill Crider of Memphis was wounded by shotgun pellets, but not severely.

(In Washington, President Kennedy huddled with top aides through most of the early morning hours at the White House.

(In his nationwide speech last night, President Kennedy declared it to be his inescapable duty to call out troops when Mississippi defied court orders to enroll a Negro at the University. At the time, he said he hoped it would not be necessary to use troops even though conciliation and persuasion has failed. The President noted that students had been admitted—regardless of race—to universities in nine other southern states.

(Congressional reaction to Kennedy's address generally split along sectional lines. All but one of the Mississippi Congressional delegation attacked it sharply. Senators from the north and west praised Kennedy's remarks as being an expression of the public will. Somewhere in between was Louisiana Senator Allen Ellender. He said he did not like the decision of the court, but since it is the law he did not see how it could be bypassed.

(Grim-faced southern governors, who are meeting at Hollywood, Florida, reacted with a wide range of comment on the President's speech. Governor Ernest Hollings of South Carolina said the people of his State are 100 per cent in sympathy with the people of Mississippi. But Governor Terry Sanford of North Carolina called the President's speech an example of good will at its best. Virginia's Governor Albertis Harrison says the question ultimately will have to be resolved by the people of Mississippi.

(For a time, at least, the rioters were led by retired Major General Edwin Walker. The former General had said before that he did not advocate violence. Walker resigned from the army after being reprimanded for instructing his troops how to vote.

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(The 29-year-old Meredith had arrived at the Oxford Airport in a small border patrol plane and went to the campus in a car. He was assigned an apartment on the campus, but was told he could not enroll because it was Sunday. As word of Meredith's arrival spread, crowds suddenly appeared on the campus. Marshals standing shoulder-to-shoulder choked off entrance to the Administration Building.

(At first there was no outward sign of trouble, but it began to develop bit-by-bit and authorities soon had a full-scale riot on their hands.)

(DOCKERS)

[fol. 1908]

PLAINTIFF'S EXHIBIT No. 4H

One newsman and a bystander were killed, and a newsman and several lawmen were wounded, before the first of more than 3,000 Federal troops began pouring onto the campus. Even then, the violence continued. Finally, the army commander ordered his troops to take whatever action necessary to end the disorder. Almost methodically the M-P's moved out with fixed bayonets. And the mob backtracked and broke, some heading for dormitories—others into adjacent woods.

The leader of the student mob, in its initial stages at least, was former army Major General Edwin Walker

[fol. 1909]

PLAINTIFF'S EXHIBIT No. 4I

[first line illegible] of the savage riots that killed two persons and injured at least 20 others.

—DASH—

(The violence that exploded even as President Kennedy was appealing for peace and observance of the law went on for nine hours. A French newsman and a local Oxford,

Mississippi, bystander were killed—the newsman by a bullet in the back. At least one Federal Marshal was critically wounded. Tear gas spread over the campus. Seven cars were burned. An estimated one thousand regular army troops now patrol the 640-acre campus.)

(ARRESTS)

Military Police arrested 93 persons in the rioting. They could get up to 20 years in prison and fines of \$20,000.

(MEREDITH)

29-year-old Negro student James Meredith is slated for another attempt today to register for classes at the University. And this time, there seems no doubt that whatever Federal power is needed to get him enrolled will be used.

—DASH—

(It was Meredith's arrival last night on the campus that sparked the wild rioting. The Negro student spent the night in a student apartment on the campus.)

(Students at Ole Miss say this morning that the riots were caused mostly by outsiders. One such outsider was former Major General Edwin Walker, who was on hand to lead the charge against Federal Marshals at the University's Administration Building.

(The rioting started not long after Governor Barnett appealed for an avoidance of violence. He said: "We are surrounded." The violence exploded during President Kennedy's nationwide broadcast in which he said—"Americans are free to disagree with the law but not to disobey it." In calling out the troops, the President said—"My responsibility as President was inescapable. All other avenues and alternatives had been tried and exhausted.")

(STRIKE)

Here is a bulletin from Washington
President Kennedy has invoked the Taft-Hartley Law in an attempt to end the dock strike on the east and gulf

coasts. The White House says Kennedy will name a Board to report to him by Thursday on the walkout. This is the first step in machinery that could bring an 80-day cooling off period.

—DASH—

(The strike of some 75,000 members of the International Longshoremen's Union isn't expected to produce hardship for the general public right away.

(It might, however, affect dockside operations of passenger liners arriving in this country, including the unloading of baggage. The strike came at the expiration of the I-L-A's contract with 145 shipping firms. And I-L-A President William Bradley says—"No work until a favorable contract is signed.")

(News directors: Sub following for third intro item, strike):

President Kennedy has invoked the Taft-Hartley Law in the east and gulf coast dock strike and this could bring an 80-day cooling off period.

(CUBA)

New York Senator Jacob Javits has called on President Kennedy to make a broadcast report to the nation on the Cuban situation, and to ask for an emergency meeting of the Organization of American States. The New York Republican says the President should recognize the urgency of what Javits terms the Cuban crisis.

—DASH—

(Javits says that as he sees it, the heart of the Cuban problem

[fol. 1910]

PLAINTIFF'S EXHIBIT No. 4J

(LOUISIANA)

In Louisiana, there have been showers this morning (Monday), mainly in the south portion of the State, and there is considerable cloudiness over most of the State. Mild temperatures prevail, and indications are that temperatures will be below normal most of the week, but noon temperatures today climbed into the 80's. Lake Charles had 83 at noon, Alexandria 81; Lake Charles 83; Baton Rouge and Monroe 77; Shreveport 76, and New Orleans 71.

—O—

(SENATOR STENNIS)

(Washington)—U-S Senator John Stennis of Mississippi has called on the Justice Department to withdraw James H. Meredith from the University of Mississippi.

Stennis said the Negro should be withdrawn permanently to prevent further bloodshed and to make it possible for classes to continue.

—O—

(DEMOS)

(Baton Rouge)—Representative Parey Branton of Webster Parish says he feels use of Federal troops at Oxford, Mississippi, would set off a southwide revolt against the national Democratic party in 1964.

Branton, who supported the unsuccessful states' rights presidential slate in Louisiana last time, led a delegation of several Louisiana legislators who had called on Mississippi Governor Ross Barnett yesterday (Sunday).

—O—

(LIVESTOCK)

(Memphis)—Hogs: U. S. 1 and 2 190-240 lb Barrows and Gilts 17.85-18.10. Good and choice 60-140 lb Feeder Pigs 12.00-15.00.

Monday's Cattle Market: Good and low choice 980-1,070
 1b Slaughter Steers 26.50-28.00. Utility and Standard
 Slaughter Heifers 600-800 lb 17.00-21.00; Good and choice
 250-500 lb Steer calves 23.00-30.00.

—O—

(WATER PROJECTS)

(Washington)—The House Public Works Committee has approved an Omnibus Bill to authorize 167 flood control, navigation and beach erosion projects throughout the nation.

—O—

(HERE'S A NEW TOP ON THE RIOT STORY)

(Oxford, Mississippi)—Rifle fire echoed in the streets of Oxford today as a Negro, James H. Meredith, ended 114 years of segregation at the University of Mississippi.

(In the midst of the shooting, troops arrested former Major General Edwin A. Walker—the man who led the troops in the 1957 Little Rock integration disturbance. Since then Walker has decided he was on the wrong side.

(Walker led students in futile charges against gas launchers in the hands of U-S Marshals during night-long rioting. Two persons were killed and 20 injured.

—O—

EV (Little Rock, Arkansas)—U-S Senator J. William Fulbright in a news conference today termed events in Mississippi "very tragic and unfortunate."

Fulbright, Arkansas Democrat, said he felt that the most "original and serious mistake the U. S. Supreme Court" had made was "usurping the legislature."

The Senator, who has a Republican opponent in the November 6th general election, said, "I still feel that this (desegregation question) would have been worked out with less trouble and less violence if let to the legislature—that is, the Congress—to deal with," he added.

Fulbright said that several years before the 1954 decision of the U.S. Supreme Court, "Officials of Arkansas solved the question at the University of Arkansas without violence" by admitting a Negro.

TS140PCS 1

[fol. 1911]

PLAINTIFF'S EXHIBIT No. 4K

AP173

WALKER (NEW TOP)

(Oxford, Mississippi)—Former Major General Edwin Walker has waived preliminary hearing in Oxford, Mississippi, on a charge of attempting to impede justice. Bond was set at \$100,000, and Walker had not posted it by mid-afternoon.

Walker's arrest came about noon at a military roadblock on the outskirts of strife-torn Oxford.

At one time during the day he marched at the vanguard of file of soldiers as though he were their inspecting officer. He refused to move after an officer ordered him to do so, then finally did move when soldiers held their bayonets within inches of his body.

In addition to attempting to impede justice charges against him include conspiracy to incite a rebellion or insurrection and assaulting a federal officer. The former general led students in an assault on Federal Marshals on the University of Mississippi campus last night and showed up today during rioting in the Town of Oxford.

Walker resigned from the Army last year after being reprimanded for attempting to influence votes of his troops in Germany. He commanded troops in the integration troubles in Little Rock, Arkansas, in 1957.

RE5PED 1

[fol. 1912]

PLAINTIFF'S EXHIBIT No. 4L

AP193

TH FIVE-MINUTE SUMMARY
(BRACKETED LINES OPTIONAL)

Here is the latest news from the Associated Press:
(First, the Mississippi Story . . .)

Federal troops—now being reinforced by crack paratroopers—have been rounding up trouble-makers to prevent another clash over the enrollment of a Negro in the University of Mississippi. Tempers turned to violence for the second time today, leading Governor Ross Barnett to plea for law and order. And there is word a second Negro—a girl—is preparing to apply for admission to the school.

Among those arrested was former Army Major General Edwin Walker—the commander of federal troops in Little Rock in 1957—who tried to command forces of the other side during a wild charge on U-S Marshals last night. Walker, wearing a ten-gallon hat, showed up again at the scene of disorders today. He waived a preliminary hearing on a charge of attempting to obstruct justice. If convicted, he could receive five years in prison and a \$5,000 fine.

Units of the 82nd and 101st Airborne divisions have begun landing at the airport in Oxford, Mississippi, to move onto the campus. They will back up hundreds of troops and guardsmen already in the town. National guardsmen from Mississippi today fired shots into the air, hurled tear gas and advanced with fixed bayonets to break up an angry mob—many of them fellow Mississippians—on downtown streets. Some 150 persons were arrested.

The rioting flared only moments after the federal government achieved what it had sought to do all along—register Negro James Meredith in the University. Mere-

dith's presence on the campus touched off eleven hours of rioting earlier that left two persons dead.

(MORE)

LU657PED 1

AP195

MORE AP193 (14TH 5 MIN SMRY) X X X DEAD.

There is word in New Orleans that a Negro girl's application for admission to the University of Mississippi is being processed. The report comes from a lawyer for the National Association for the Advancement of Colored People, Jack Greenberg. He says the unidentified girl is having no trouble so far.

The N-A-A-C-P has sent a telegram to President Kennedy, applauding him for what it terms the "firm action" of the federal government in the Meredith case.

(KENNEDY STEPS INTO A LABOR DISPUTE . . .)

President Kennedy has invoked the Taft-Hartley law in an attempt to seek an early halt to a strike by 75,000 longshoremen at ports from Maine to Texas. An official of the AFL-CIO longshoremen's union says seven other maritime unions have agreed to respect picket lines and walk off all American ships docking in struck ports. The strike affects 145 shipping firms.

(AN UNCONGENIAL COUPLE: A SPACEMAN AND A STORM NAMED DAISY . . .)

Weathermen say tropical storm "Daisy"—considered the main threat of the space flight by Walter Schirra Junior—has weakened. If all goes well, the Astronaut will make his six-orbit flight on Wednesday. The storm has been regarded as a threat because it would affect the Atlantic

recovery area to be used if the flight is cut short at the end of three orbits.

(DAISY'S LOCATION . . .)

Reconnaissance airplanes have been keeping a watchful eye on

[fol. 1913]

PLAINTIFF'S EXHIBIT No. 4M

AP198

(400)

(MISSISSIPPI (NEW TOP)

(Oxford, Mississippi)—The U-S Government flew crack army combat troops into Oxford, Mississippi, today—apparently to show it means business and will tolerate no further outbreaks of violence.

Units of the 82nd and 101st Airborne Divisions from Fort Campbell, Kentucky and Fort Bragg, North Carolina, being landed at the Oxford Airport to move onto the riot-torn University of Mississippi campus. The paratroopers began arriving in at least regimental strength aboard giant Air Force transport planes.

Reinforcement of the Government's position came as federal troops stood occupation duty in downtown Oxford and on the campus proper, after putting down a night-long battle precipitated by the quartering of Negro student James Meredith on the Ole Miss campus.

Former Army Major General Edwin Walker was among some 150 persons arrested as federal officers rounded up troublemakers in an effort to maintain the peace.

The federal force sealed off the main courthouse square in downtown Oxford. Army troops secured the University campus where a French news agency reporter and an Oxford man were shot to death last night.

Jøering, shouting students appeared again as Meredith emerged from his campus apartment this morning, but they were driven off by Federal Marshals.

Former General Walker was arrested for leading a charge of students against the Marshals last night.

He waived preliminary hearing before a U-S Commissioner on a charge of attempting to obstruct justice. Bond was set at \$100,000 and the controversial Texan had not posted it by mid-afternoon.

[fol. 1914]

PLAINTIFF'S EXHIBIT No. 4N

AP204

BULLETIN'

Here is a Bulletin from the Associated Press:

(Oxford, Mississippi)—The Government is sending former Major General Edwin Walker from Oxford, Mississippi, to a U-S Medical Center in Missouri. Walker was arrested after leading a charge of students against U-S Marshals at the University of Mississippi.

G756PED 1

[fol. 1915]

PLAINTIFF'S EXHIBIT No. 40

(WALKER)

The government decided late today to send former Major General Edwin Walker, who led a charge of students against Federal Marshals last night on the University campus, to a hospital instead of to jail. Walker failed to post \$100,000 bail at his arraignment today. But instead of sending him to some Federal House of Detention, the Justice Department flew him off to the U-S Medical Center in Springfield, Missouri.

—DASH—

(Democratic Senator Wayne Morse of Oregon had said earlier in Congress that Walker appeared to be a 'sick man and added, if this is so, "he ought to be committed."

(Walker, as a Major General, commanded federal troops sent into Little Rock, Arkansas, in 1957 to enforce court-ordered public school integration. He resigned from the Army after being reprimanded for trying to give troops in Germany political indoctrination.

(Attorney General Robert Kennedy said earlier today that Walker would be charged with inciting to insurrection, a serious charge carrying penalties up to 20 years in prison and \$20,000 fine. However, in Oxford, he had been arranged only on a charge of attempting to obstruct justice—a lesser charge—before the decision was made to send him to a hospital.

(He was arrested today at a roadblock outside strife-torn Oxford. Earlier, at one point, he had marched in front of troops as if he were their Inspector General and agreed to leave only [illegible words] a bayonet point.)

(ROUNDUP)

Some 200 have been arrested so far in the clash over integration of the University of Mississippi—described as the most serious federal-state conflict since the Civil War. Here are some of the other developments in the many-sided situation:

Mississippi Governor Ross Barnett, in a broadcast this afternoon, called for an end to violence. He said law and order must prevail "even though our state has been invaded by federal forces."

In New Orleans, it's announced a second Negro—a girl this time—is applying for admission to the University of Mississippi. The word is from Jack Greenberg, Attorney for the National Association for the Advancement of Colored People.

Democratic Senator James Eastland of Mississippi said the Justice Department and U-S Marshals provoked the campus riot. Eastland, who heads the Senate Judiciary Committee, said the committee and the entire Mississippi Congressional Delegation have been invited to Oxford to investigate.

(BLAME)

Attorney General Robert Kennedy issued a statement clearly indicating that the outbreak of violence should be attributed to failure of Governor Barnett and other state officials to maintain promised police details. President Kennedy, as well as his brother, the Attorney General, are reported to feel that Barnett did not carry out a promise to provide police protection for Meredith.

—DASH—

(In the center of the storm, the 29-year-old Air Force Veteran, James Meredith, appeared outwardly calm. He paid his \$230 cash for tuition and asked about class routine. He was assigned to a two-room apartment with a kitchenette in a residence hall. Meredith's subjects will include history, political science and English.

(A Justice Department spokesman said marshals will live with Meredith and escort him to class "as long as he is in any danger."

(As Meredith left the registrar's office smiling, he said to reporters he is in the University for purely academic reasons. He said he would not participate in extra-curricular activities.

(Newsmen asked if he was happy that the long struggle had met with success. He replied, "No. This is not a happy occasion."

(Hundreds of jeering students followed him to his first class.)

[fol. 1916]

PLAINTIFF'S EXHIBIT No. 4P

H207

WITH WALKER

(Springfield, Missouri)—The hospital to which Major General Edwin Walker is being flown from Oxford, Mississippi—the U-S Medical Center at Springfield, Missouri—has facilities for complete psychiatric care of prisoners.

HB842PED 1

AP208

EASTLAND (NEW TOP)

(Washington)—Mississippi Democratic U-S Senator James Eastland has directed the Senate Judiciary Committee to make a complete investigation of all events at the University of Mississippi since U-S Marshals and army troops moved in. Eastland had said earlier that the committee—of which he is chairman—had been invited to make such an investigation.

HB844PED 1

[fol. 1917]

PLAINTIFF'S EXHIBIT No. 4Q

AP214

FIFTEENTH FIVE-MINUTE SUMMARY

(BRACKETED LINES OPTIONAL)

Here is the latest news from the Associated Press:

(FIRST, THE SITUATION AT OXFORD . . .)

Oxford, Mississippi, was quiet late today as several thousand more U-S troops moved into the city by truck and plane to maintain order.

This morning soldiers fired into the air and used tear gas to break the riots in the downtown area.

There were no disturbances at the University of Mississippi campus as Negro James Meredith registered and went to class at the formerly all-white school. He was guarded by Federal Marshals.

There have been these other developments in the wake of last night's bloody disorders in Oxford. . . .

In Washington—The Justice Department issued a statement saying violence broke out on the campus because Governor Ross Barnett and other Mississippi officials did not keep their promise to provide the police details needed to keep order.

In Jackson, Mississippi—Barnett took issue with the Justice Department. He blamed the violence on what he called "inexperienced, nervous and trigger-happy" Federal Marshals.

In Oxford—Former Major General Edwin Walker was arrested by U-S troops and removed to the Federal Medical Center in Springfield, Missouri. Charges against him included insurrection against the government for his part in leading an attack on Marshals last night. But instead of jailing him when he failed to post \$100,000 bail, the Justice Department sent him to the Missouri Hospital, which has facilities for mental care.

In New Orleans—The National Association for the Advancement of Colored People said a Negro girl is in the process of applying for admission to the University of Mississippi.

In Washington—Mississippi Senator James Eastland said his Judiciary Committee will make a complete investigation of the events in Oxford.

(VOTES IN THE SENATE . . .)

An attempt was made in the Senate today to slash nearly 800 (M) million dollars from the Foreign Aid Bill, but it was defeated. The Senate also voted to permit President Kennedy to continue aid to Communist Yugoslavia and Poland if he wishes.

1300

[fol. 1918]

PLAINTIFF'S EXHIBIT No. 4R

SPLIT

REST RED 940APED 1

AP220

WALKER (NEW TOP)

(Springfield, Missouri)—A plane carrying former Major General Edwin Walker has landed at Springfield, Missouri. Walker was taken at once to the U-S Medical Center for federal prisoners, which has facilities for psychiatric care. Walker was arrested in Oxford, Mississippi, earlier on charges including insurrection against the United States, for his part in rioting at the University of Mississippi.

The Medical Center is maintained by the Federal Bureau of Prisons to treat prisoners with either physical or mental ills. Federal judges often send accused persons to the center for psychiatric study to determine whether they are sane enough to stand trial.

JP942PED 1

[fol. 1919]

PLAINTIFF'S EXHIBIT No. 4S

AP235

SIXTEENTH FIVE-MINUTE SUMMARY

Here is the latest news from the Associated Press:

Thousands of battle-ready troops have been poured into Oxford, Mississippi, following the dramatic ending of more than a century of segregation at the state university. The concentration of troops is taken as a sign of Washington's determination to prevent any more of the rioting that took two lives last night on the university campus.

Quiet has settled over the University of Mississippi after a day which saw a Negro, 29-year-old James Meredith, attending classes, accompanied by Federal marshals. Jeering students followed Meredith, but there were no incidents.

In the town of Oxford, however, a demonstration against U-S troops was quelled by tear gas and rifles fired over the heads of the crowd.

Former Major General Edwin Walker, who last night led a charge of students against Federal marshals, was arrested today on four counts, including insurrection against the United States. He failed to post \$100,000 bond and was flown to the Federal Medical Center at Springfield, Missouri. The center has facilities for psychiatric care, and judges often ask it to determine if prisoners are sane enough to stand trial.

Soldiers arrested 33 persons in Oxford tonight—most of them youths caught at campus roadblocks. This brought the total arrested since the rioting began to 214. Most of them have been released. Charges of conspiracy to obstruct justice and to interfere by force with performance of a court are being prepared against 25.

At the State capital in Jackson, Governor Ross Barnett blamed the disorders of the last 24 hours on the Marshals. He said they were—in his words—"inexperienced, nervous and trigger-happy." In remarks prepared for a broadcast statement tonight, he said Marshals fired tear gas point blank at Highway Patrolmen who were successfully moving back a crowd of students.

President Kennedy and his brother, Attorney General Robert Kennedy, are reported to feel that Governor Barnett let them down by not keeping a promise to provide police protection for Meredith. The Attorney General put out a statement blaming the violence on failure of Barnett and other Mississippi officials to maintain promised police details.

Democratic Senator James Eastland of Mississippi has directed the Senate Judiciary Committee to investigate the situation at the university. Eastland is Committee Chairman. He and other Mississippi members of Congress claim the Justice Department and Marshals were responsible for the mob violence.

The Senate has rejected attempts to cut President Kennedy's Four (B) Billion, 422 (M) Million Dollar Foreign Aid Money bill. It put

[fol. 1920]

PLAINTIFF'S EXHIBIT No. 5A

Louisiana: Clear to partly cloudy today, tonight and Wednesday, highest today 78 to 84, cooler southeast portion tonight, lowest tonight 54 to 64.

South Half of Mississippi: A few showers mainly near the coast today, otherwise clear to partly cloudy through Wednesday, highest today 78 to 84, somewhat cooler tonight with lowest 54 to 64.

New Orleans and vicinity: Clear to partly cloudy today, tonight and Wednesday, cooler tonight, northerly winds 8 to 16 miles per hour, highest temperature today 80 to 84, lowest tonight 60 to 64. The temperature in downtown New Orleans at 4 A-M was 73 degrees, relative humidity 90 per cent and winds 2 miles per hour from the north.

—O—

(WITH OLE MISS-RIOTERS)

(Oxford, Mississippi)—A Federal Commissioner at Oxford, Mississippi has set bonds ranging up to \$25,000 for 12 persons arrested in connection with Sunday night rioting at the University of Mississippi.

The Commissioner last (Monday) night ordered the 12 bound over to the Federal Grand Jury on charges ranging from resisting Marshals to insurrection. None of the 12 are Ole Miss students.

Commissioner O. D. Craig, in a special preliminary hearing in the Ole Miss Lyceum Building where Federal forces have set up headquarters, set the highest bond at \$25,000 for Melvin Bruce of Decatur, Georgia. Officers said Bruce was arrested on the campus with a rifle in his possession.

—DASH—

(Bruce told Federal Marshals he went to the Ole Miss campus to "help Gen. Walker."

(Former Major General Edwin Walker was arraigned earlier before Craig, held under a \$100,000 bond, and then whisked to a medical center for federal prisoners at Springfield, Missouri.

(Held on \$5,000 bonds were Joseph E. Cutrer of Kentwood, Louisiana, Frank L. Ott, also of Kentwood; Philip L. Myles of Prichard, Alabama; Clyde May, also of Prichard; and R. H. Hinton of Lucedale, Mississippi.)

(Craig set \$2,500 bonds for William Gilbert Marr Junior of Memphis; Robert W. Blackard of Olive Branch, Mississippi; William David Marlow the 4th of Ruleville, Mississippi; Edward L. Shade Senior of Picayune, Mississippi; Johnny McCormick, of Grenada, Mississippi; and David Richards of Canton, Mississippi.

(They all face the same charges lodged against Walker: (1) assaulting, resisting, or impeding U-S Marshals. (2) conspiring to prevent discharge of duties; (3) inciting, assisting and engaging in insurrection against the authority of the United States; and (4), conspiring to oppose the execution by force of any law of the United States.)

—O—

(NIGHT CLUBS)

(New Orleans)—A special New Orleans City Committee says one of its first projects will be an investigation of vice in nightclubs.

The special Mayor's Committee met for the first time yesterday (Monday). Then it said it planned a probe of b-drinking, lewd dancing and other offenses in New Orleans nightclubs.

—O—

(WITH OLE MISS-LINDSEY)

(Memphis)—One of the troops on duty in Mississippi is a Medal of Honor winner from Waynesboro, Mississippi. He is Staff Sgt. Jake Lindsey.

He is one of the medal winners mentioned Sunday night by President Kennedy in his television speech.

Lindsey arrived at the Memphis Naval Air Station from Ft. Campbell, Kentucky, yesterday (Monday) and was sent to Oxford a short time later. He is with the 101st Airborne Division.

UT44OACS 2

[fol. 1921]

PLAINTIFF'S EXHIBIT No. 5B

Coolest spot in the state was Greenwood, which recorded a low of 55. Other minimum readings included: Jackson 58, Tupelo 60, McComb 63, Meridian 68, and Biloxi 69.

Biloxi had the highest reading during the past 24 hours with an 81. Jackson and Meridian were a shade behind at 80, McComb had a 79, Greenwood 78 and Tupelo 72.

—O—

Here's the University of Mississippi desegregation case in a capsule:

Armed federal troops are keeping vigil over an uneasy truce in Oxford, the college hamlet turned into a battleground as a Negro entered the University of Mississippi.

—O—

James H. Meredith, the grandson of a Negro slave, spent the first night as a University of Mississippi student under heavy security guard.

—O—

Mississippi Gov. Ross Barnett is near the deadline to purge himself of contempt of federal court citation.

—O—

Former Major General Edwin A. Walker, Commandant of troops during the Little Rock school integration fight,

has been committed to Missouri Prison Center for psychiatric examination.

—O—

Mississippi Senator James Eastland has called for a probe in the segregation fight at Ole Miss. Eastland blames the Kennedy administration for the bloody dispute.

—O—

(New York)—An attorney for the Reverend Martin Luther King is calling for a nationwide economic boycott of the State of Mississippi.

William M. Kunstler—an associate law professor at New York University and Special Legal Counsel for King—said that—in addition—Mississippi should be subject to—as he put it—social ostracism and outspoken criticism for its handling of the James H. Meredith case.

—O—

(WITH MEREDITH)

(New Orleans)—An attorney for the National Association for the Advancement of Colored People says the application of a Negro girl for admission to the University of Mississippi is apparently being processed.

Jack Greenberg, Chief Counsel for the NAACP, would not identify the girl when he made the announcement yesterday.

Greenberg said—in these words—“She is getting communications from the book store and the dress shop and they know she is a Negro.”

—O—

(HOUSTON-MISS)

(Oxford, Mississippi)—The University of Houston—not the helmeted soldiers who keep a cautious vigil over the campus—was the big question on Mississippi football coach John Vaught's mind today.

Vaught's charges, ranked seventh in this week's Associated Press poll, meet Houston at the University field Saturday.

Or at least the rebels are scheduled to play Houston. There's been some concern the game may be cancelled because of the riots surrounding the admittance of a Negro to Ole Miss.

Vaught, however, said his team was working hard in practice sessions for the Houston game and the one-time Texas Christian All America lineman added—in these words:

“There is nothing I have discovered to change our plans about playing Houston here Saturday.”

—O—

UT/TS740ACS 2

[fol. 1922]

PLAINTIFF'S EXHIBIT No. 5C

APRNU5

More special Sunday service of the Associated Press for Louisiana and Mississippi:

5 (REACTION)

(Jackson, Mississippi)—Some Mississippi lawmakers are disappointed and concerned about President Kennedy's action federalizing Mississippi National Guard units.

Senator Slavous Lambert of Belmont said he doubted such troops would be used to force the entrance of Negro James H. Meredith into the University of Mississippi.

Senator Frank Barber of Hattiesburg said “I am much disturbed, disappointed and disheartened.”

Senator Billy Mitts of Enterprise—who retired as a National Guard officer September 1452—said the federalization of Mississippi National Guard units for possible use in their own state puts these men in a “very, very difficult position.”

Senator Campbell of Jackson said “While the Kennedy administration is pitting brother against brother in a sovereign state and acting as an errand boy for the NAACP,

the administration has done nothing toward enforcing the requirement that all Communists must register."

—O—

(VOLUNTEERS)

(Jackson, Mississippi)—Besieged with offers of volunteers to help his fight to retain segregation at the University of Mississippi, Governor Ross Barnett has apparently decided against inviting any large number of out-of-staters.

But former Major General Edwin A. Walker, in Mississippi to lead "A national protest to the conspiracy within," says "tens of thousands from Florida to California will come to support Governor Barnett."

Segregationist groups throughout the South have offered volunteers to Barnett. Barnett aides were reported turning down such offers.

Louisiana segregation leader Willie Rainach, who offered 10,000 Louisianans to Barnett, said yesterday (Saturday) that the Governor and other state officials opposed inviting them.

—DASH—

(Speaking to several thousand persons in a rally at Shreveport, Louisiana, Rainach said Mississippi authorities did not want "large groups of undisciplined people at Oxford interfering with their preconceived plan to deal with James Meredith and the federal authorities."

(Rainach, who conferred earlier in the day with Barnett at Jackson, said he offered the volunteers but Barnett "didn't say for them to come."

(Rainach added: "Then again he didn't say for them not to come."

Gen. Walker, who said he was in Jackson "to stand with Governor Barnett shoulder to shoulder," admitted he had "not talked with Gov. Barnett personally."

(Walker's call for volunteers was denounced in Dallas, Texas by the National Association for the Advancement of Colored People.

(Clarence Laws, NAACP Southwest regional secretary, said it was "Irresponsible and dangerous and could lead to dreadful consequences."

(Offers of volunteers to back Barnett have come from citizens councils, the National States Rights Party, units of the Ku Klux Klan and individuals sheriffs and other citizens.

(Fred Hockett of Miami, Executive Secretary of the Florida White Citizens Council, said he had pledged from 1,500 men to move with arms into Mississippi.

(In St. Petersburg, Florida, the national organizer of the National States Rights Party offered Barnett "Any help he needs, whether it is armed or unarmed."

(The Rev. Oren F. Potito, a minister of the Church of Jesus Christ, Christian, said all Barnett has to do is ask and party leaders in 30 states will be contacted.

In Selma, Ala., Sheriff James Clark of Dallas County said he and Sheriff Hugh Champion of neighboring Chilton County were ready to go to Mississippi with posses of up to 500 men to aid in "preserving the public order and in traffic control."

(Clark said the men were prepared to move by car on a few hours notice.

(A group of more than 50 Montgomery, Alabama men planned to leave

[fol. 1923] RADIO-TV
BUSINESS

PLAINTIFF'S EXHIBIT No. 5D

APRNU6

Cotton futures opened 15 cents a bale higher to 35 cents lower.

	Prev Close	Open
Oct	33.05N	33.08N
Dec	33. B	33.65B
Mar	34.18B	34.18B
May	34.32B	34.29B
Jul	33.13B	33.10B
Oct	30.94B	30.87B
Dec	31.00B	30.97B
Mar	31.19B	31.22B

N-Nominal; B-Bid.

UM

—O—

(WITH MEREDITH-WALKER)

(New Orleans)—The U-S Attorney's Office in New Orleans says conviction on all the counts against former Major General Edwin A. Walker could result in a total of 37 years imprisonment and more than 35-thousand dollars in fines. Walker led one of the charges of students against Federal Marshals during rioting at the University of Mississippi Sunday night.

—O—

GA JA FW

[fol. 1924]

PLAINTIFF'S EXHIBIT No. 5E

A146KX

MEREDITH (190)

Austin, Tex., Oct. 2 (AP)—About 150 University of Texas students paused en route to classes today for three-minutes of silence because of Mississippi integration troubles.

Student Association President Marion Sanford Jr. called for the action to "demonstrate our sadness that this should have to come to pass and to further show our support of the authority of the Constitution."

The University has 20,000 students.

The student assembly sent telegrams yesterday to James Meredith and to the student assembly at Ole Miss favoring integration.

The University of Texas student newspaper, the Daily Texan, said today in a news story that "student opinion is sharply divided on the question of whether the student assembly was right "in sending the telegrams.

A daily Texan editorial today said Mississippi State officials "Must take the blame for the legal resistance to federal court orders. The students—aided and abetted by former Maj. Gen. Edwin A. Walker—are responsible for most of the violence. But the entire state—with its anachronistic values and traditions—must share the blame for the mental and sociological degeneracy which has characterized the Mississippi reaction."

VX/GC747PCS

[fol. 1925]

PLAINTIFF'S EXHIBIT No. 5F

Former Major General Edwin Walker—in custody of U-S authorities—has been taken to the U-S Medical Center for federal prisoners in Springfield, Missouri. Accused persons are often sent there for psychiatric examination to determine if they're sane enough to stand trial.

Walker was arrested for his part in riots in Oxford, Mississippi, Sunday night. There are several charges against him, including insurrection against the U-S.

He was unable to raise the \$100,000 bond, but the warden at Springfield says Walker told him it will be raised.

EXHIBIT NO. 5g:

Former Major General Edwin Walker has been flown from Oxford to the federal medical center in Springfield, Missouri. The controversial Texan led a charge of students against marshals at the University Sunday night. Accused persons are often sent to the center for psychiatric study to determine whether they are sane enough to stand trial.

EXHIBIT NO. 5h:

Former Major General Edwin Walker—charged with insurrection against the United States for his part in the Oxford rioting—was taken Monday night to the U-S Medical Center for federal prisoners in Springfield, Missouri. The center is maintained to treat prisoners either with physical or mental ills. Walker says he expects friends to raise the \$100,000 bond set for his release from U-S custody.

EXHIBIT NO. 5i:

Former Major General Edwin Walker was arraigned earlier before Craig, held under a \$100,000 bond, and then whisked to a medical center for federal prisoners at Springfield, Missouri, late in the day.

EXHIBIT NO. 5j:

(In the meantime, a war hero—former Major General Edwin Walker has been held under \$100,000, charged with insurrection against the United States. The 53-year-old Texan led one student charge Sunday night against Federal Marshals at the University and, later, appeared in the midst of rioting in downtown Oxford. He was confined last night in the U-S Medical Center for federal prisoners at Springfield, Missouri—a center maintained for the treatment of prisoners with either physical or mental ills.

[fol. 1926]

PLAINTIFF'S EXHIBIT No. 6-A

AiiAX (AMS IN) (250)

Oxford, Miss., Oct. 2 (AP)—U.S. Commissioner Omar D. Craig ordered 12 persons arrested in rioting at the University of Mississippi bound over to the federal grand jury late last night.

Charges ranged from resisting marshals to insurrection.

Craig, in a special preliminary hearing in the Ole Miss Lyceum Building, where federal forces have set up headquarters, set a \$25,000 bond for Melvin Bruce of Decatur, Ga., who federal officers said was arrested on the campus with a rifle in his possession.

Bruce, not a student, told the marshals he came to the campus from Georgia to "help Gen. Walker."

Former Maj. Gen. Edwin Walker was arraigned earlier before Craig, held under a \$100,000 bond, and then whisked to a medical center for federal prisoners at Springfield, Mo., late in the day.

[fol. 1927]

PLAINTIFF'S EXHIBIT No. 6B

A17WX

(470) PMS BUDGET

PERSONALITY IN THE NEWS; WALKER

BY HARRY KELLY

Washington, Oct. 2 (AP)—Five years ago Maj. Gen. Edwin A. Walker, a tough spit and polish soldier, told students at Little Rock, Ark., that the Supreme Court's school integration decision was "binding on all citizens."

"If it were otherwise," he said, "we would not be a strong nation but a mere unruly mob."

At the time Walker commanded troops enforcing desegregation of Little Rock schools.

Sunday night, the tall ex-General who led troops in combat in Europe and Korea led a mob of students in a charge on U. S. Marshals trying to enforce desegregation of the University of Mississippi.

A sergeant who served under Walker in Germany once said of him: "He could develop more esprit d' corps in one month than other officers I've served under could in a career."

He used this talent during the violence of Sunday, leaping upon a Confederate Memorial and shouting to the milling students:

"If you can't win, go home. Don't stay at the University. But let's not quit; we can win."

But tear gas broke the charge. The skirmish was lost.

And today the 53-year-old Texan was in a U. S. Medical Center at Springfield, Mo., where federal prisoners are treated and examined for physical or mental ills.

He is charged with conspiracy to incite rebellion or insurrection.

What brought the change from the man at Little Rock to the one at Oxford, Miss.? Says Walker: "I was on the wrong side . . . this time I am on the right side."

[fol. 1928]

PLAINTIFF'S EXHIBIT No. 6C

A24NU

PMS BJT (900)

MEREDITH ROUNDUP

Oxford, Miss., Oct. 2 (AP)—A swelling tide of federal troops, bayonets fixed and rifles ready, enforced a grim, uneasy truce today at the University of Mississippi.

Under tightest security guard, James H. Meredith spent his first night on the campus as a forcibly enrolled student. Floodlights played on Baxter Hall where the 29-year-old Negro had a two-room apartment with a kitchenette.

In New Orleans, Mississippi Gov. Ross Barnett had a date in federal court (at 11 A.M., CST) on a contempt citation, harvested from his vain effort to thwart Meredith's entrance as the 114-year-old University's first knowingly admitted Negro student.

"I call on the President to put a stop to further violence by immediate removal of Meredith and the withdrawal of federal troops and marshals from Mississippi soil," the 64-year-old Governor said in a speech telecast across the nation last night.

Barnett blamed federal intervention for the weekend segregation riots and the deaths of a French newsman and an Oxford repairman.

Washington's rebuttal was a mounting building of nearly 12,000 soldiers including the crack 101st Airborne, the paratroop outfit that quelled the 1957 school integration violence at Little Rock.

Troops streamed into Oxford, outnumbering the college hamlet's citizenry 2-1 in the most naked display of federal might since the end of the Civil War nearly a century ago. The armed troops arrested more than 200 persons since Sunday night. About one-third of them students. Most of them went free, but more than a dozen stayed in custody to face various charges, including former Maj. Gen. Edwin Walker.

The military's mission was to protect the slightly-built, 29-year-old Meredith's court-ordered status as a student at the University, and to forestall further rioting on campus or in Oxford.

[fol. 1929]

PLAINTIFF'S EXHIBIT No. 6D

Jeeps rattled through inky blackness on inspection of armed footsoldiers who dug foxholes beneath a softly falling rain. The campus was sealed off, to anyone the federal government wished barred. So was the town square of Oxford, where short-lived skirmishes occurred yesterday between civilians and helmeted troops.

A25NU

There was no indication whether Barnett would meet an 11 A.M. (CST) deadline set by the 5th U.S. Circuit Court of Appeals in New Orleans. He was given until that hour to purge himself of contempt, incurred last week when he personally blocked initial federal efforts to register Meredith at the University of Mississippi.

Barnett faces a \$10,000 a day fine and imprisonment if the contempt sentence was carried through. Mississippi Lt. Gov. Paul M. Johnson faces a \$5,000 a day fine for his defiance.

The highlight of yesterday's kaleidoscopic segregation drama was the arrest of Walker, the spit-and-polish former army general who led the 101st Airborne at Central High School during the Little Rock segregation crisis.

Walker, 53, resigned from the army after a dispute over his indoctrination program for overseas American troops. He came here from his home in Dallas, Tex., after urging the massing of tens of thousands of volunteers to resist Meredith's registration.

On Sunday, Walker rallied rioting students on the Mississippi campus. He was arrested yesterday after he shouted encouragement to rioters who hurled bottles and bricks at federal troops in Oxford's Central Square.

Walker failed to make \$100,000 bond on charges that included engaging in insurrection against the American flag he once served. Maximum penalty upon conviction would be 20 years in prison and a \$20,000 fine.

[fol. 1930]

PLAINTIFF'S EXHIBIT No. 6E

A31NU

MEREDITH AT A GLANCE

BY THE ASSOCIATED PRESS

Armed federal troops keep vigil over uneasy truce in Oxford. The college hamlet turned into a battleground as a Negro enters the University of Mississippi.

James H. Meredith, grandson of a Negro slave, spends first night as a University of Mississippi student under heavy security guard.

—O—

Mississippi Gov. Ross Barnett nears deadline to purge himself of contempt of federal court citation.

—O—

Former Maj. Gen. Edwin A. Walker, commandant of troops during the Little Rock School integration fight, committed to Missouri Prison Center for Psychiatric Examination.

—O—

Mississippi Sen. James Eastland calls for probe in segregation fight at Ole Miss and blames the Kennedy administration for the bloody dispute.

UM237ACS

[fol. 1931]

PLAINTIFF'S EXHIBIT No. 6F

A38NU

MTBL IN

A38NU

In their tightening grip of the oak-encircled Oxford campus, troops during Monday night arrested two dozen persons for carrying weapons, including a man and his 14-year-old son. Also seized was a shotgun toting woman, first of her sex to be arrested in the great Mississippi integration crisis.

Since rioting broke out Sunday evening, to be continued spasmodically on Monday, more than 200 arrests have been made, including that of Maj. Gen. Edwin A. Walker, who commanded the troops at the 1957 integration crisis in Little Rock, Ark.

A dozen of those arrested were awaiting Grand Jury action. Many others were freed.

Walker, 53-year-old retired officer, led one student charge against Federal Marshals during Sunday's disorders, and was arrested at bayonet point yesterday during downtown rioting. He had come to Oxford from his Texas home as an avowed opponent of integration.

Walker failed to post \$100,000 bond and was taken to a Springfield, Mo., federal prison which specializes in psychiatric diagnosis and care. However, in Washington, Atty. Gen. Robert F. Kennedy said Walker was confined in a prison section and not in the hospital.

Charges against Walker include insurrection against the United States. Maximum penalty on this and three accompanying counts would total 37 years in prison and fines of \$35,300 upon conviction.

The Justice Department was engaged in an intensive investigation to find the slayer of two men, shot down during Sunday's violent clash on the Ole Miss campus.

"We will probably get the fellow or fellows who pulled the trigger," said Guthman, who is Press Secretary to Atty. Gen. Kennedy.

Slain were a French newsman, Paul Guihard, 30, sent to Oxford from New York to cover the integration crisis for French and British news media, and Walter Ray Gunter, 23, an Oxford juke box operator. Guihard was shot in the back, Gunter in the head.

AS109PCS

[fol. 1932]

PLAINTIFF'S EXHIBIT No. 6G

AP1NU

AMS BJT (600)

ARRESTS

By Tom Pendergast

Oxford, Miss., Oct. 2 (AP)—Armed with bayonets and loaded rifles, U.S. troops today guarded a stockade holding 75 men arrested by federal agents.

Nine of the men held in the stockade put up at the airport faced serious seditious charges arising out of riots at the University of Mississippi. Three others booked on seditious charges were released on bond.

One of the 12, identified as Melvin Bruce, 36, (2937 Westbury Drive) Decatur, Ga., was held in lieu of \$25,000 bond.

Justice Department spokesman Edwin Guthman said Bruce, who had a rifle in

WR

DDWMN, was taken into a few minutes after

DGAD BEE0

Justice Department spokesman Edwin Guthman said Bruce, who had a rifle in his possession, was taken into custody a few minutes after "our people had been fired on by rifles."

Guthman would not say whether Bruce had any connection with any of the deaths or injuries resulting from the riots.

The other 8 men formally charged were held in lieu of \$2500 bond.

Guthman said four serious charges were filed against the 12. He said the charges were:

Interfering by force with U.S. Marshals, carrying a maximum sentence of \$5,000 fine and three years in jail. 35

3

) 3, '0

[fol. 1933]

PLAINTIFF'S EXHIBIT No. 6H

A43

SUB

Oxford, Miss.—Meredith roundup BJT (A24NU) sub following for 6th through 8th grafs, "Washington's rebuttal X X X Edwin Walker."

Washington authorities countered that Barnett's failure to provide adequate police protection caused the strife.

There was a mounting buildup of nearly 12,000 soldiers including the crack 101st Airborne, the paratroop outfit that quelled the 1957 school integration violence at Little Rock.

Troops streamed into Oxford, outnumbering the college town's citizenry 2-1 in the strongest display of federal might in this state since the end of the Civil War nearly a century ago.

Armed troops arrested more than 200 persons, about one-third of them students. Most went free, but more than a dozen stayed in custody to face various charges, including former Maj. Gen. Edwin Walker.

The military's, 9th Graf.

ZR514AED

A44

CORRECTION

Oxford, Miss—Meredith roundup BJT (A24-26) in 3rd Graf A26NU, starting "the Students' reference" make it X X X his back. Ray Gunter, 23, an Oxford X X X (fixing name).

THE AP

ZR515AED

[fol. 1934]

PLAINTIFF'S EXHIBIT No. 6I

A54MU (OPTIONAL)

OPTIONAL LEAD

WITH MEREDITH: WALKER (A21MU)

Oxford, Miss., Oct. 2 (AP)—Former Maj. Gen. Edwin A. Walker, who barked commands to federal troops during one school integration crisis, awaited possible psychiatric examination today from his cell a prison at Springfield, Mo.

U.S. Atty. Gen. Robert Kennedy announced the arrest of the one-time Army Field Commander yesterday. Deputy

Atty. Gen. Nicholas Katzenback, the top-ranking Justice Department officer in Oxford, ordered Walker's arrest for taking part in the integration disputes at the University of Mississippi.

The 53-year-old Texan led one student charge against Federal Marshals on the Mississippi campus, and later appeared in the midst of rioting in downtown Oxford.

Shortly after X X X 5th GRAF A21MU.

UN346ACS MM ASKT

[fol. 1935]

PLAINTIFF'S EXHIBIT No. 7-A

LQBThere are unconfirmed reports that Walker has arranged to post the \$100,000 bond set by a U-S Commissioner in Mississippi in his case.

(A number of Mississippi newspapers have blamed outsiders in large part for the violence on the University campus. As one—the Hattiesburg American—put it: "If there had been no one on the Ole Miss campus but students, the highway patrolmen and Federal Marshals, it is extremely unlikely that serious trouble would have developed.")

[fol. 1936]

PLAINTIFF'S EXHIBIT No. 7B

A204NU

URGENT

Oxford, Miss.—1st. add riot separate A202NU XX with rocks. Guihard was identified by authorities at the Oxford Hospital. The rioting started shortly after sundown when about 2,500—jeering and jok

The rioting started shortly after sundwon when about 2,500 students—jeering and joking—gathered at the Administration Building where the marshals held their tight guard.

In the early stages, much of the shouting at the marshals sounded more like jest than maliciousness.

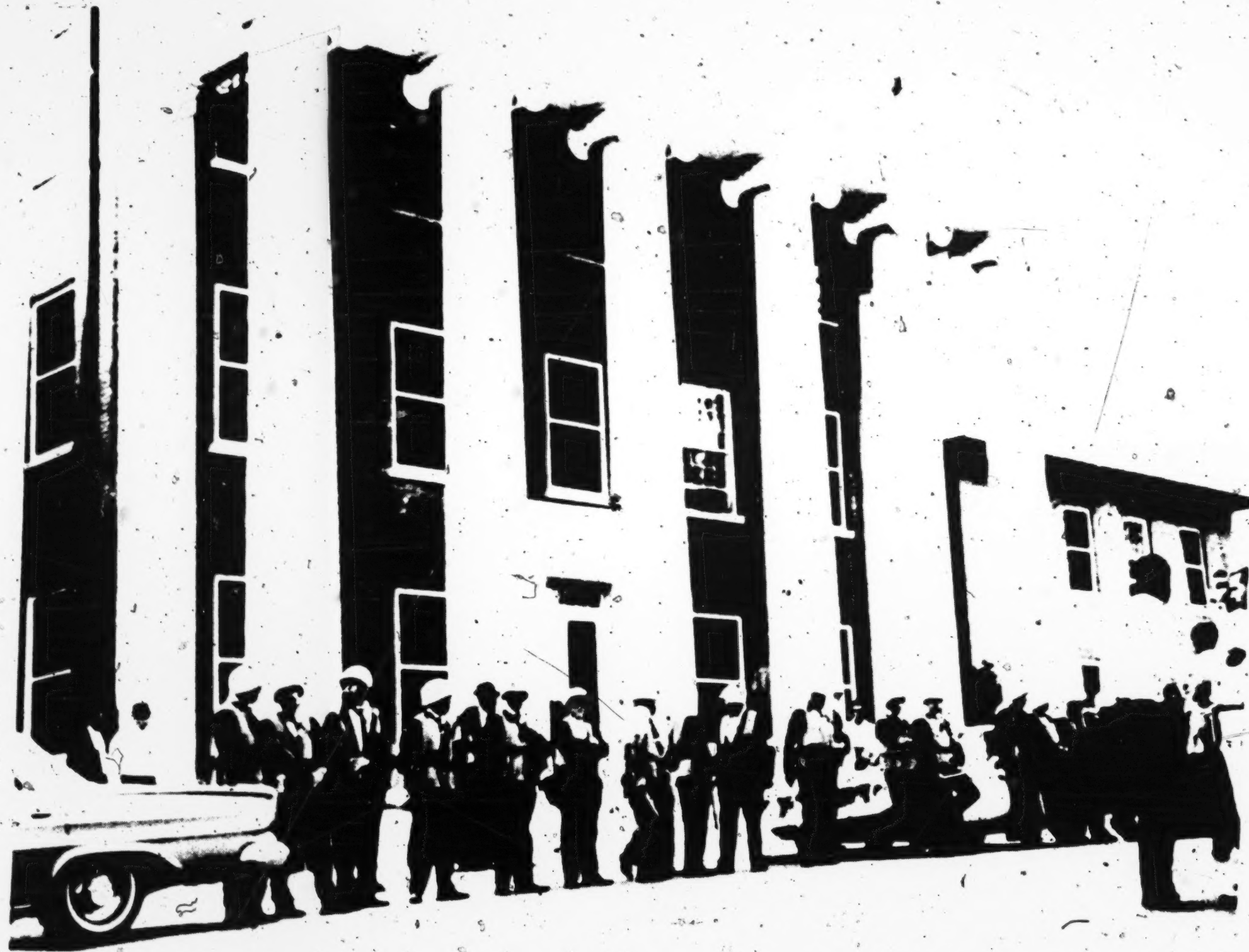
From time to time, even the grim-faced marshals would break into a slight grin.

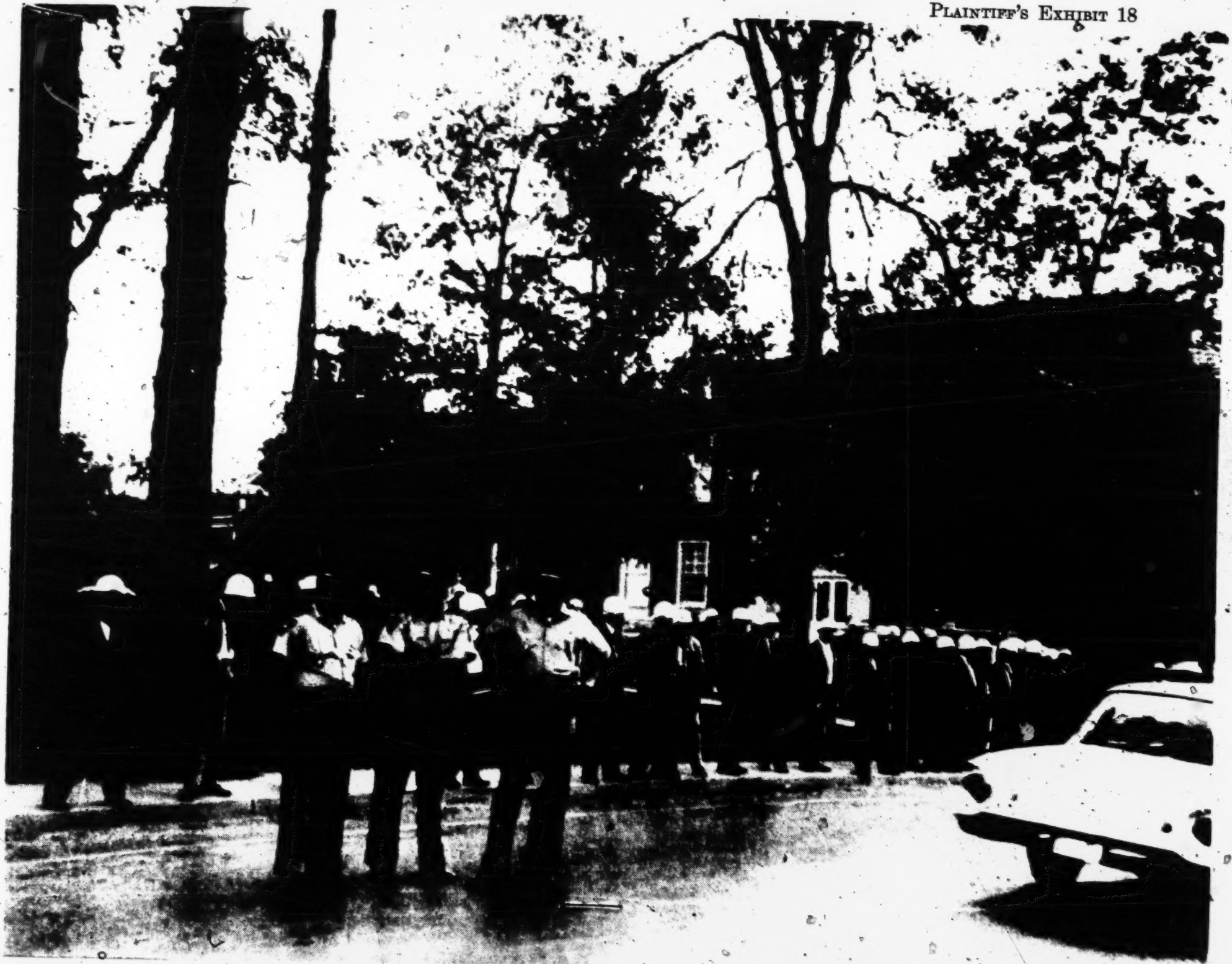
But as the evening wore on the talk got rougher and the students started rampaging. They tore away a photographers' camera and smashed it. They smashed the windows in a car, sending a man and woman fleeing.

Then they moved against one of the Army trucks standing by with the marshals. They got the cap off the auxiliary gasoline tank and threw a flaming piece of newspaper at the fumes, trying to set fire to the truck.

(MORE)

RT 1055PCS NM








[fol. 1940]

DEFENDANT'S EXHIBIT 14

(See opposite) 



OFFICE OF THE SECRETARY OF DEFENSE
WASHINGTON, D.C. 20301

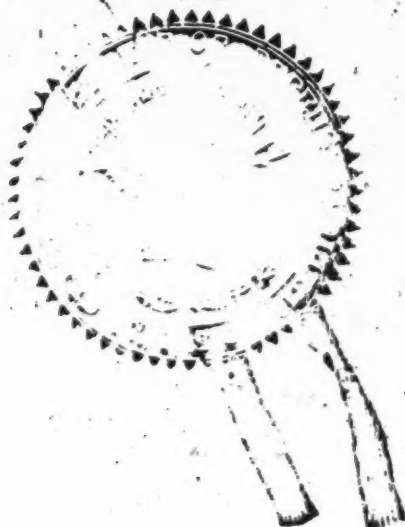
Pursuant to the provisions of Department of Defense Directive Number 5015.1 dated July 31, 1952, I hereby certify that the annexed document is a true copy of a microfilmed message on file in the Department of Defense.

In witness whereof, I have hereunto set my hand and caused the seal of the Department of Defense to be affixed this 9th day of June in the year of 1964, A.D. at Washington, District of Columbia.

Shirley E. Meyer

Shirley E. Meyer
Executive Assistant

Office of Administrative Services



1328

[fol. 1941]

SCAGE

DEPARTMENT OF THE ARMY
STAFF COMMUNICATIONS DIVISION

ROUTINE.

FROM: PIO US ARMY MILITARY DISTRICT LITTLE ROCK ARK

TO: CINFO DEPTAR WASH DC

NR: 251500Z

SEP 57

Speech by Major General Edwin A Walker to
students of Little Rock Central High School 0900 hrs 25 Sep
57.

Young ladies and gentlemen of Central High School.
Mr Blossom, your superintendent of schools, has asked me to
come to your school this morning and discuss with you the
situation in Little Rock and what it means to you students.
I welcome this opportunity to do so.

As you know, the Fourteenth Amendment to the Consti-
tution of the United States guarantees to all citizens the
equal protection of the laws. Since the adoption of this
amendment, many states have provided separate schools for
their children on the basis of color. The laws establishing
such schools have, however, been challenged in the courts, and
about three years ago, the Supreme Court of the United States
determined that such laws are contrary to the provisions of
the Fourteenth Amendment and consequently invalid. This
decision by the highest court in the land is, of course, an
authoritative interpretation of our Constitution, is binding
on all citizens and government officers, both state and
Federal, and may not, under our law, be changed except by an
amendment to the Constitution.

Because of the Supreme Courts decision, it became
necessary for those states maintaining separate schools to revise
their systems to eliminate distinctions on the basis of color.
The nature of these plans was left to the states and local
communities, subject to approval by the local Federal District
Courts. The Little Rock School District prepared such a
plan which was approved by both the District Court and
Circuit Court of Appeals. This plan provides for a -vary
gradual abandonment of the separate schools system starting
this year.

Subsequent to the approval of this plan, attempts were
made in the courts to prevent the school authorities from putting
it into effect.

I need not go into the details of this litigation,
DA III 863951 (25 SEP 57)

MESSAGE

DEPARTMENT OF THE ARMY
STAFF COMMUNICATIONS DIVISION

NR: 251500Z

PAGE 2

sufficient to say it was unsuccessful, and that the plan as originally approved remains unchanged and is full force and effect.

During the past few weeks, as you are well aware, the situation in Little Rock has been such as to prevent the entrance of a few students into your high school. Therefore, to see that the laws of the land be faithfully executed, the President has found it necessary to call the National Guard of Arkansas into the Federal Service and has directed that this force and each other armed forces as may be made available be used to enforce the orders of the Court, as an officer of the United States Army, I have been chosen to command these forces and to execute the Presidents orders.

What does all this mean to you students. You have often heard it said, no doubt, that the United States is a nation under law and not under men. This means that we are governed by laws, properly decided upon by duly constituted authority, and not by the decrees of one man or one class of men. Since this is true, it means that we are all subject to all the laws whether we approve of them personally or not and as law-abiding citizens have an obligation in conscience to obey them. There can be no exceptions, if it were otherwise, we would not be a strong nation but a mere unruly mob.

I believe that you are well-intentioned, law-abiding citizens, who understand the necessity of obeying the laws and are determined to do so. You have nothing to fear from my soldiers, and no one will interfere with your coming, going or your peaceful pursuit of your studies. However, I would be less than honest if I failed to tell you that I intend to use all means necessary to prevent any interference with the execution of your school boards plan. This is what I have been ordered to do, and I intend to carry out my orders. Those who interfere or disrupt the proper administration of the school will be removed by the soldiers on duty and turned over to the local police for disposition in accordance with the laws of your community.

One last word about my soldiers. They are here because they have been ordered to be here. They are seasoned, well-trained soldiers, many of them combat veterans. Being soldiers
DA IN 863951 (25 SEP 57)

1330

[fol. 1943]

SSAGE

DEPARTMENT OF THE ARMY
STAFF COMMUNICATIONS DIVISION

NR: 251500Z

PAGE 3

they are as determined as I to carry out their orders. However, as I stated before, the law-abiding people have nothing to fear from them. They have been carefully instructed not to molest any law-abiding citizen in his person or property, and they will obey these orders. Since a peaceful atmosphere must be maintained in the school and its vicinity, it may be necessary for them to issue instructions concerning such things as loitering, assembling in large groups, and otherwise making it difficult for them to perform their duties. I earnestly ask that you cooperate, for your own benefit and ours.

I wish you all success in your school year and Mr. Matthews, I thank you for the opportunity to talk to the student body.

NOTE: Advance copies have been delivered to DCSOP, OCS, OSA

ACTION: DCSOP

INFO: OCS, OSA, CI, JAG, DCSLOG, ACSI, OSD, DCSPER

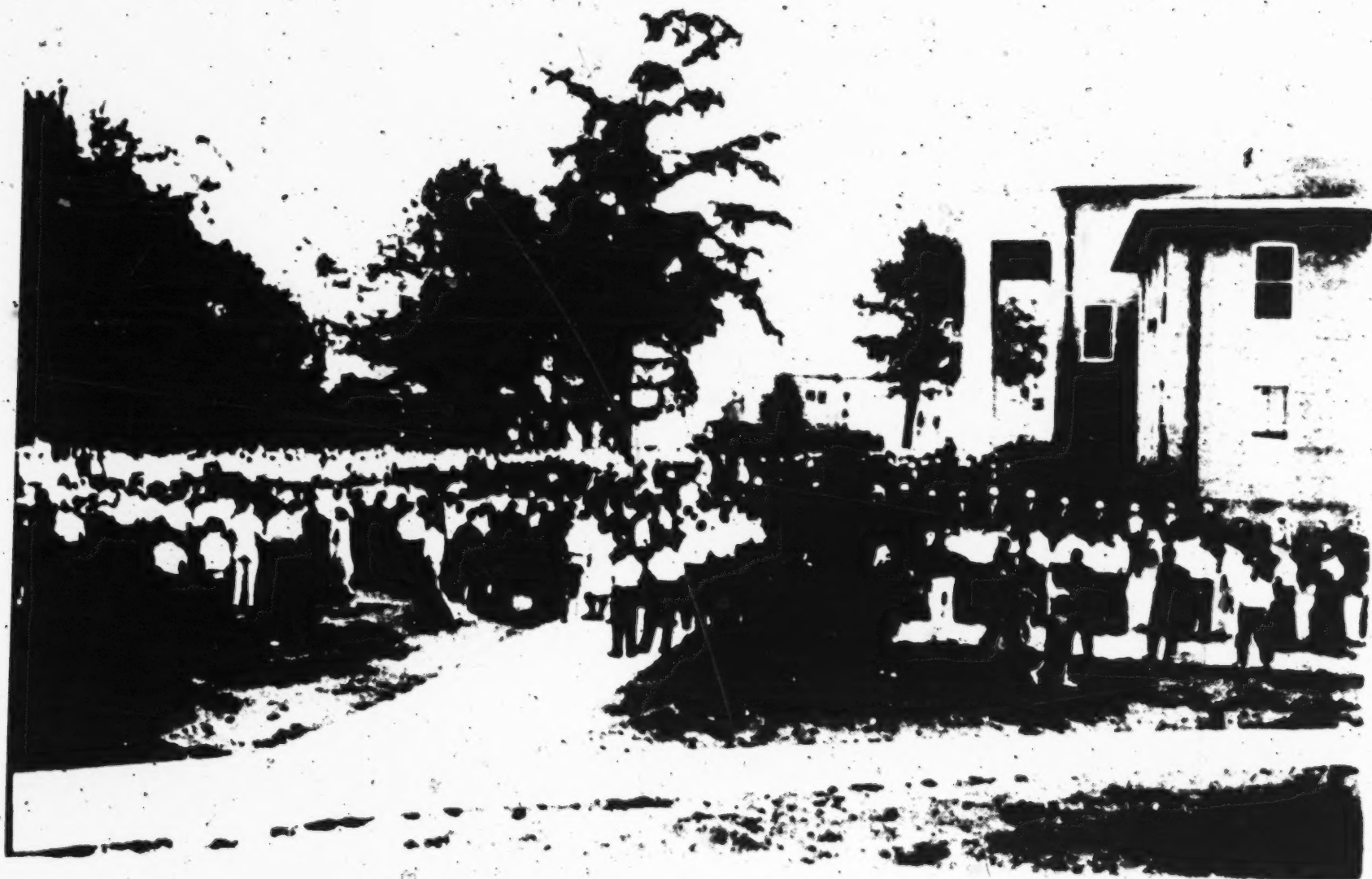
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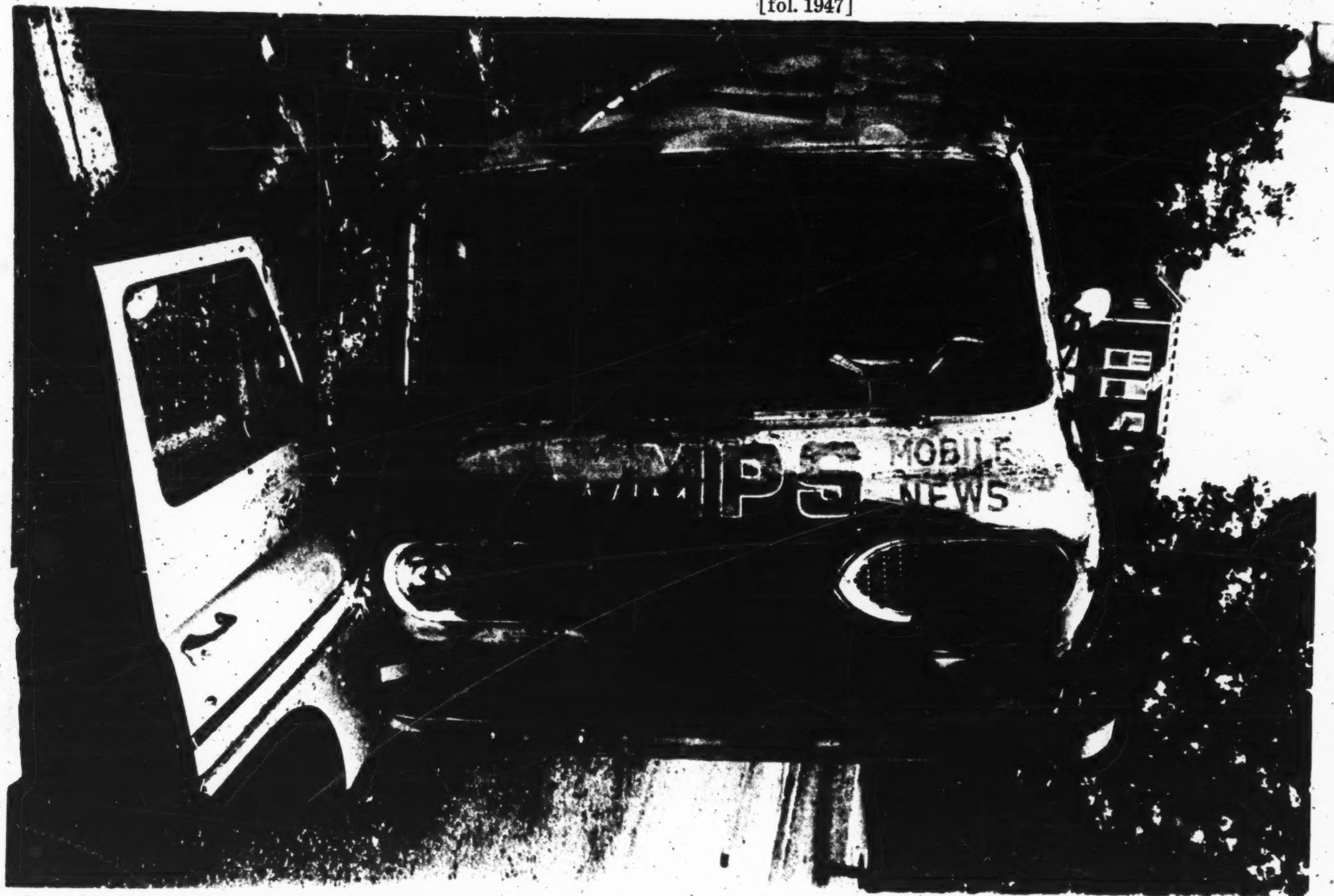
(25 SEP 57)

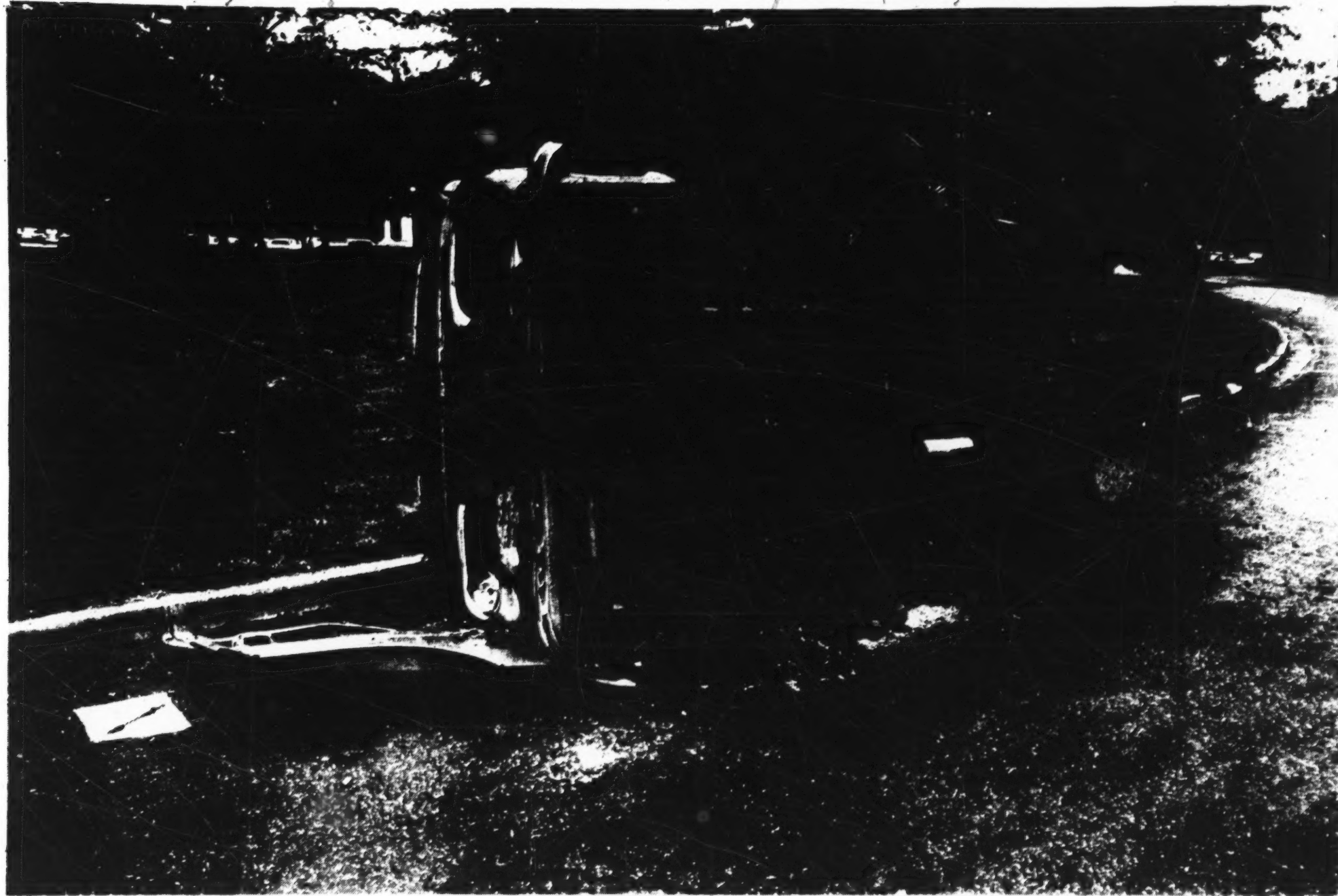
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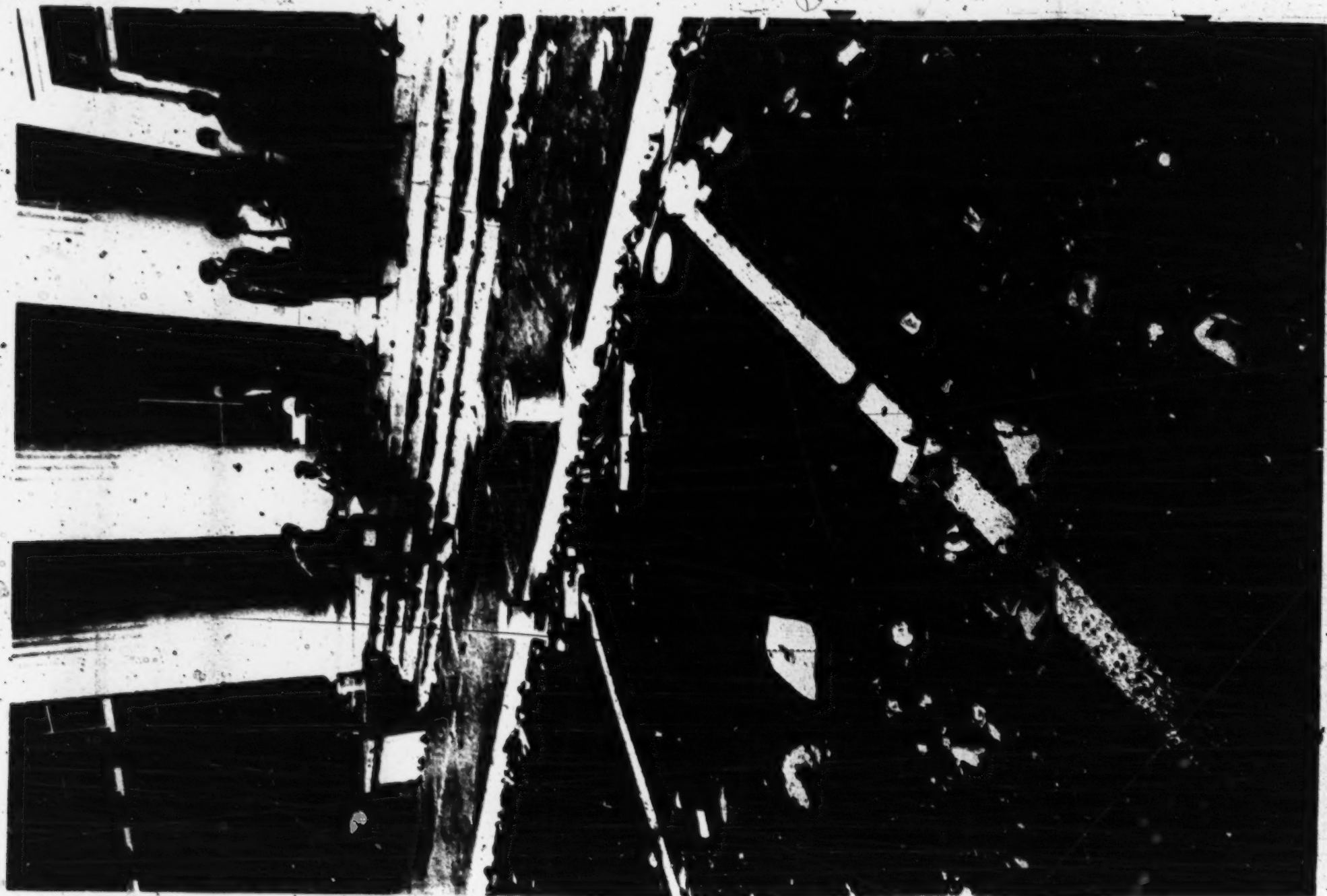






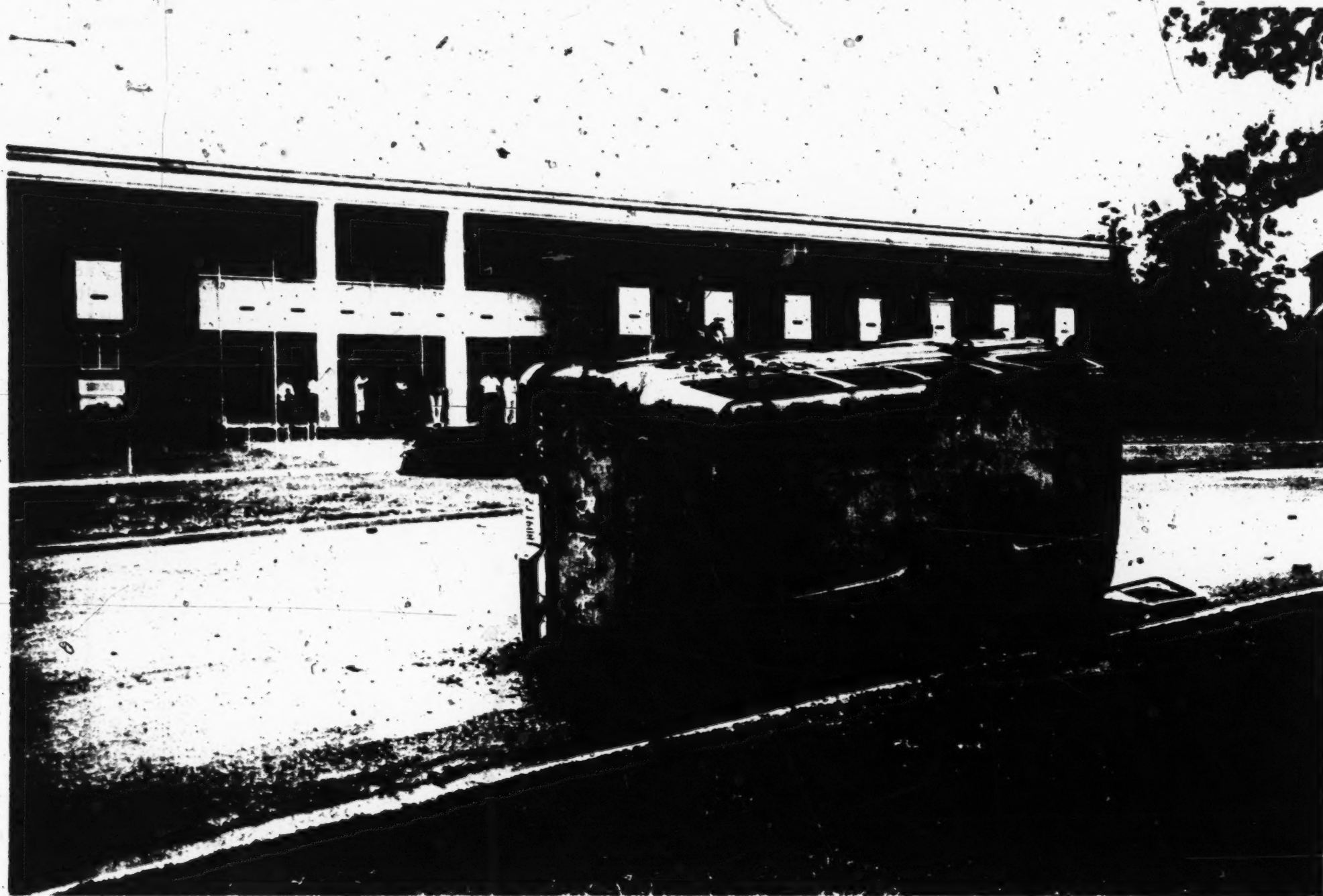












fol. 1953]

PLAINTIFF'S EXHIBIT 8

Handwritten notation—Thurs. 10-4-62—Night Report—
[runk Copy]

fol. 1954] A171

(ADVANCE FOR MORNING PAPERS
OF SUNDAY, OCT. 7)

Meredith—Ole Miss (2,150)

by the Associated Press

(ADVANCE) Oxford, Miss., Oct. 6 (AP)—James H. Meredith probably doesn't know the exact moment himself. But the moment surely was there—the moment when he made up his mind, the moment he decided to enroll at the University of Mississippi.

Because Meredith is a Negro, his decision on that unknown day marks a turn—a sharp turn—in American history.

Today, James H. Meredith, Negro, is a student at the University of Mississippi—the first of his race ever registered knowingly at proud, historic Ole Miss.

But because the question was settled, the Federal Government and the State of Mississippi collided in a test of strength that shook the very roots of the union.

It was sometimes physical, sometimes legalistic, always laced with every ingredient of tragedy.

It was the biggest clash of State vs. Federal Power since the Civil War.

It reached a climax with two dead and scores injured in riot at the University, a Governor, Lieutenant Governor and a former Major General all facing the possibility of jail, federal troops occupying this small college town—and Meredith registered.

The violence on the campus has ended—that awful nightmare of tear gas and buckshot, rifle bullets and flying

bricks, screaming hordes of people gone wild, and blood and death.

The litter of the battle is gone—the bricks and broken glass swept away, the bullets pried out of the walls of the Administration Building, the wounded healing.

In the student union, the juke box blares and the students dance in a gay atmosphere.

[fol. 1955] They talk and kid with the soldiers occupying their campus.

At a roadblock outside the campus, two soldiers stopped two attractive blondes in a car to check identification.

"Anything else you want of me?" one of the blondes asked the soldier.

"Not just now," one of the soldiers replied with a smile.

"Well, call me later," she said.

Youth was back to acting youthful.

Outwardly, there was an air of easing tensions on the campus. The Federal Marshals cut their force accompanying Meredith to his classes from six to three. The soldiers waved cars by the roadblocks with less fuss and bother.

But a feeling of foreboding lies beneath the surface—smouldering, as any cotton-country boy knows a fire might smoulder unseen in stored cotton, ready at any time to burst into the raging flame.

In the midst of the seeming serenity late in the week, developments illustrated the fear of the smouldering.

The Defense Department forbade the University to stage its homecoming football game here Saturday as scheduled. Fearful of the risks involved in trying to handle 20,000 or 30,000 visitors, most of them deadset against seeing a Negro in Ole Miss, the government told the University: Shift the site or cancel the game. The University moved the game to Jackson, 170 miles to the south.

The marshals, although reduced in number, did continue to accompany Meredith—and will continue, for a length of time nobody tries to guess.

And, of course, the Army still is here.

A172

So is Meredith, living in a dormitory room with three iron cots—one for himself, one for the Justice Department man charged with his overnight protection, and one remaining unused.

He leads a strange and lonely life. He's a free agent, says the government, but marshals guard his every step. He's a college boy, according to his registration papers, but he won't be taking part in many activities. He's a student on a campus that prides itself on friendliness, but he counts no companions in the student body.

He's been through an ordeal—a long trail of court hearings, jeering crowds that shouted "Nigger, Nigger," people who wanted only to get their hands on him.

[fol. 1956] Once the (Illegible) Mississippi and the fear of violence were so great that (Illegible) Gen. Robert F. Kennedy called Meredith and his escort of (Illegible) back just short of the Ole Miss campus. An Army of 500 Sheri (Illegible) ities, highway patrolmen and city police was waiting at the gates of Ole Miss to turn them back.

And the threat of violence is not over. Witness the troops and the marshals.

The question arises: Who is James Meredith? And also: Why does he want to do this?

Meredith summed it up only this week when students at the University of Alberta in Canada invited him to enroll in their University with all expenses paid.

He declined, and told them:

"We, all of my people, have hoped and prayed and fought for a long time for the right to have a decent education. Do you think they all could go to the University of Calgary?"

And earlier, many times, he's said: "I live in Mississippi, and I want to go to school in Mississippi."

The 5th U.S. Circuit Court of Appeals in New Orleans, in ruling last summer that he must be admitted at Ole Miss, cited an Air Force psychiatrist's report saying

Meredith was a man inclined to "start a crusade to get existing rules and regulations changed."

The grandson of a slave, Meredith was born on a cotton and corn farm near Kosciusko, a small town in central Mississippi, 29 years ago. He was one of 10 children.

His father, Moses (Cap) Meredith, never got past the fourth grade. But he was determined his children would do better. All ten finished high school, and seven went to college.

James was graduated from high school in 1950 and enlisted in the Air Force—the start of a ten-year tour that saw him gather his first college credits.

He began his college work by taking extension courses at the University of Kansas in 1953. He took courses in speech, composition and literature, making C's.

After that, as he traveled with the Air Force, he picked up credits from Washburn University in Kansas and the Far East Division of the University of Maryland.

At Maryland, Stanley Drazek, associate dean of the University College, said Meredith was a "very excellent student" while attending classes in the school's far-flung centers in the Orient.

A civilian again in 1960, he enrolled at Jackson State College, a Negro school in the Mississippi capital.

It wasn't long before he applied at Ole Miss, but he continued his studies at Jackson state. When he enrolled at Ole Miss last week, he needed only six hours to take his degree in political science at the Negro school. In transferring, he lost a year or more.

(MORE)

TB1224AED

[fol. 1957] A25NU (RDUP)

AMS BUDGET

NIGHT LEAD MEREDITH ROUNDUP (580)

BY RELMAN MORIN

Oxford, Miss., Oct. 4 (AP)—The University of Mississippi's gala homecoming football game was switched 170 miles away to Jackson today, to avoid any renewed violence over Negro James H. Meredith's forced integration into the student body.

The Defense Department ordered the transfer "on the basis of information . . . which indicated it would be unwise for the game to go ahead at Oxford and the fact that minor incidents continue to occur."

The Government ultimatum put a damper on a festival weekend for 4,800 Ole Miss students, who had planned to play host to nearly 30,000 visitors. A big Friday night dance was called off. Soheeu outdoor bonfire rallies and other homecoming events.

As the 29-year-old Meredith, an Air Force veteran, went through his fourth day of scholastic activity, ERT VISITORS. A big Friday night dance was called off. So were outdoor bonfire rallies and other homecoming events.

As the 29-year-old Meredith, an Air Force veteran, went through his fourth day of scholastic activity, his escort of U.S. Marshals was cut in half, from six to three. And plans were announced for the withdrawal of 380 Marshals from among 450 on duty here since campus rioting last weekend claimed two lives.

In Washington, however, an official said the situation at Oxford still was considered "fairly tense."

[fol. 1958] During relatively quiet night campus, only 11 persons were picked up for questioning, and all were released. There have been more than 250 arrests during the week, but only a handful of persons have been charged with crimes.

Meredith, slightly-built, quiet-spoken center of the greatest integration crisis yet in the South, arrived on the campus last Sunday. He was the first Negro ever knowingly enrolled in the 114-year history of the school.

With the rioting, some 12,000 armed Federal troops were rushed into Oxford to restore order. About 8,000 still are on duty.

Nicholas Katzenbach, Deputy U.S. Attorney General, told newsmen here that while there was some relaxation in Meredith's security guard, he did not know when further reductions in the troops might come.

At some point, he added, local authorities may have to assume responsibility for Meredith's safety. However, Lt. Gov. Paul B. Johnson Jr. said earlier in the week he didn't think it ever would be possible for Meredith to attend the University without Federal protection. Johnson said he could not imagine state forces being used as a substitute for Federal troops.

Katzenbach, asked when he thought it might be possible for the Federal Government to relinquish its tight grip on the University campus, replied that "My crystal ball isn't good enough for that."

[fol. 1959] AS26NU

In Washington, an official who declined to be quoted by name, said he could see no possibility of removing Meredith's escort entirely, and that he probably would need federal protection for as long as he stays at the University—which may be 18 months or longer.

Katzenbach did say:

"I have great confidence in the students and their good behavior . . . I don't think Mr. Meredith will be assaulted on the campus."

As for the football game, Katzenbach said no federal troops or marshals will be detailed to Jackson.

Meredith already had made weekend plans that did not include the game or other homecoming events. He is expected to leave the campus, and may visit his wife, who is a student at Jackson State (Negro) College.

Even in Meredith's absence, federal officials decided against letting the football game with the University of Houston go on here as scheduled. Federal Marshals had predicted trouble.

"There was some feeling," said Katzenbach, "that Homecoming Day came on us a little fast."

The game will be played at Jackson's Memorial Stadium at 2 P.M. CST. The announcement from Mississippi University Chancellor J. D. Williams said:

"The Ole Miss campus is secure and a condition of near normalcy under the circumstances is rapidly returning. Less than 60 students have formally withdrawn and some of them may return by Monday. . . .

"We have been advised by Robert S. McNamara, Secretary of Defense, and Cyrus R. Vance, Secretary of the Army, from Washington, concerning our homecoming game—that it be played in Houston or Jackson, or that the game be cancelled."

Students reacted in varying ways to the game's transfer. One complained that the student body might as well be under martial law. But another said:

"We've had enough trouble around here without inviting the red-necks in for a football game."

Sarcasm was expressed by State Legislators at Jackson. Rep. Russell Davis, referring to Atty. Gen. Robert F. Kennedy, said in the House Chamber:

"I understand (MORE)—WX"

235PED

[fol. 1960] A30NU

Oxford, Miss—1st add NL Meredith roundup (A25-26NU) XXXX House Chamber:

"I understand Bobby Kennedy will referee the game."

"If he does referee the game," replied Speaker Walter Sillers, "Ole Miss is beaten before it starts."

During the night, five carloads of U.S. Marshals assigned to Oxford were halted at Holly Springs, Miss. They were not held but Sheriff Sol Cox claimed four of them were "intoxicated, extremely arrogant and resisted arrest."

Katzenbach said the convoy was permitted to continue within a short time and added:

"There had been no drinking among the men and none was arrested."

Gov. Ross Barnett of Mississippi, and Sen. James O. Eastland, D-Miss., have blamed U.S. Marshals for last weekend's rioting at Oxford. However, a minority group of professors at the University of Mississippi adopted a resolution in defense of the marshals. The campus chapter of the American Association of University Professors added:

"We have evidence that the attempt of men in prominent positions to place all the blame for the riot on the United States Marshals is not only unfair and reprehensible, but is almost completely false. We encourage an investigation by the proper authorities."

The Club's Chairman, Barton Milligan, declined to say whether the resolution specifically was in reply to Barnett or Eastland. Only 50 of 250 professors belong to the Club and Milligan said:

"We are a definite minority among the faculty. I like to think our opinion represents the majority. But I'm not in a position to say that it does."

[fol. 1961] In another statement, ministers of all Oxford churches save one called upon Mississippians, in the aftermath of last weekend's rioting, to observe the coming Sunday as "A specific time for repentance for our collective and individual guilt."

The statement lacked only the backing of the Church of Christ, but that group does not participate in interdenominational actions.

Meredith, meanwhile, turned down an invitation to transfer with all expenses paid to the University of Alberta, Canada. And a denial was made in Washington of a recurrent report that Meredith would transfer to the integrated University of Miami in Florida.

Gov. Barnett, Mississippi's 64-year-old Democratic Chief Executive, who tried in vain to personally block Meredith's integration, made a brief television appearance last night and said deep anger and resentment still are felt by Mississippians over the dispatch of U.S. troops to Oxford. But he added:

"Let's by all means avoid violence. Let's maintain law and order."

AS1247PCS NM ASKT

[fol. 1962] A82NU (MORIN)

WITH MEREDITH ROUNDUP (450)

By Relman Morin

Oxford, Miss., Oct. 4 (AP)—Dr. John D. Williams, Chancellor of the University of Mississippi, said today that the students are "very confused and torn" over the fact that James H. Meredith, a Negro, has been enrolled on the campus.

"Your guess is as good as mine," he replied when asked how long he thought it would be before Meredith could move around the campus without escort.

Dr. Williams said there "is no doubt" that the prestige of the university has been damaged. But he said that the alumni and many, if not most, of the citizens of Mississippi want to recover whatever losses have been sustained.

He was asked to assess the attitude of the majority of the students today, the fourth day of Meredith's attendance at classes. He replied:

"Most of them are not indifferent. I would say they are very confused, very torn between their loyalty to the state and to the nation.

"They came here under the influence of their communities and their homes with many preconceived attitudes. It is the duty of the university to bring them truth and knowledge."

Asked what would happen if the federal government ordered other Negro students to be enrolled on the campus, he replied, "We will follow court orders."

There have been reports that a Negro woman has applied for registration at Ole Miss.

The officials present at the news conference said all they knew was what they had seen in the newspapers, and such information could come only from the registrar. He was not present at the news conference.

[fol. 1963] Dr. Williams said he believed the attendance was approaching normal in the classes. He referred questions on this to Dr. Charles F. Haywood, the provost.

Dr. Haywood said the attendance as of Wednesday was between 50 and 65 per cent. He said he estimated that today it is at 75 to 85 per cent. And he added that in some senior classes and graduate classes it was 100 per cent.

A83NU

Referring to events of last Sunday night when rioting on the campus took the lives of two persons and injured some 75 others, he said, "I can't figure any way we could have prevented it."

Dr. Haywood said there have been about 60 student withdrawals since Sunday. But he said this is "almost normal" for the first semester at this stage.

Dr. Williams said a notice has been posted asking students possessing weapons to surrender them. Newspapermen said they have not seen any such notices. Dr. Williams said he had been informed they had been posted.

He said some students have approached university officials and asked if they could turn over their guns to the university for the time being. He pointed out that many of them go hunting for squirrels and doves at this time of year.

They have been encouraged to turn in their arms, Williams said.

Regarding reports of a special train to take students to Jackson for Saturday's football game with the University of Houston, the chancellor read a telegram from Gov. Ross Barnett.

It said in part, "I will be responsible for round-trip transportation for students who wish to attend the game."

AS415PCS NM ASKT

[fol. 1964] A107NU

WITH MEREDITH

BY ED LEBRETON

Oxford, Miss., Sept. 4 (AP)—The Justice Department revealed today eight deputy U.S. Marshals were injured at the University of Mississippi riots Sunday night before tear gas was used against demonstrators.

And, Deputy Atty. Gen. Nicholas Katzenbach said, the force of 538 Marshals suffered 38 percent casualties—including 29 cases of gunshot wounds and some acid burns. A total of 166 Marshals, including specially deputized border patrolmen and Bureau of Prisons personnel, were wounded.

Katzenbach told a news conference the high rate of injuries by Marshals during the night-long riots that followed the arrival of Negro James H. Meredith under Federal guard at the Ole Miss campus included one wounded seriously. But that man, Graham Same of Indianapolis, was recovering from bullet wounds in the throat.

Most of the injured were hit by bottles, bricks and other flying objects, Katzenbach said.

However, one of the men burned by acid was present at the news conference. John Cameron, Deputy Chief of the special Marshals force, told newsmen he was burned over an area of about four square inches at the base of his neck by acid.

"It could have been worse," Cameron said. "I probably would have received the acid in my face, except that I'd just turned to aid another Marshal who had just been burned."

It was the first report acid had been used by demonstrators during the bloody riots that killed two persons and injured hundreds.

Katzenbach said he expects the force of Marshals in Oxford to be reduced to about 25 by early next week. The military has assured the general security of the area, he said, and the Marshals' remaining job will be to guard Meredith personally.

He declined to say whether Meredith will be accompanied by Marshals when he leaves the campus, for the weekend.

RK605PCS

[fol. 1965]

A110NU

WITH MEREDITH LIBRARY (350)

BY BILL CRIDER

Oxford, Miss., Oct. 4 (AP)—James H. Meredith, first Negro ever enrolled at the University of Mississippi, entered the University's library today, walked from room to room, and checked out a book without incident.

This was Meredith's fourth day attending classes. At the end of his afternoon class, he walked part of the way from Peabody Hall to the library, a distance of about 300 yards.

He entered the library while two U.S. Marshals in civilian clothes loitered unobtrusively in the hall. One was Chief Marshal James P. McShane.

Meredith first was introduced to an assistant librarian who showed him the card file. She was courteous but unsmiling.

After looking at the file, he went into two reading rooms.

Then, he was escorted to the basement where there is another large reading room. Two women librarians there took him around. Again, there were courteous but unsmiling.

While he was in the room, a white student entered. As soon as he saw Meredith, he left.

Another student came out of a small reading room where smoking is permitted.

He spoke to U.S. Marshal Albert Taylor, of Chula Vista, Calif.

"Tell him he can study in here if he wants to smoke," he said.

One youth seeing Meredith examining a card file, called to another. "Come here and look at this," he said.

The second youth, seeing Meredith, said, "Well, I'll be damned."

Another student watching Meredith walk past murmured, "just like a fraternity brother."

[fol. 1966] Some of these in the library stared straight ahead. The expressions of others plainly registered dismay.

During the day, Meredith attended four classes and walked into each with his guards lagging about 20 to 30 feet away.

Encouraged by the relatively quiet reception during the morning, officials decided Meredith could walk from his final afternoon class to the library in the same manner.

It's a distance of about 300 yards.

Watchful Marshals, apparently sensing growing hostility, waved Meredith to a car before he had covered a third of the way. The move came after a pretty co-ed among the students exclaimed, "Why doesn't somebody kill him."

Meredith was driven to the library and entered through a side entrance.

RK629PCS

A112NU

MEREDITH—LEGISLATURE

BY JIM SAGGUS

Jackson, Miss., Oct. 4 (AP)—Sarcasm flooded the chamber of the House of Representatives today after it was announced that the University of Mississippi homecoming football game against Houston would be played in Jackson Saturday.

"I understand Bobby Kennedy (Atty. Gen. Robert F. Kennedy) will referee the game," Rep. Russell Davis of Hinds County said on the floor.

"I hope he will come down," Rep. Thompson McClellan of Clay replied.

"If he does referee the game," speaker Walter Sillers of Bolivar added, "Ole Miss is beaten before it starts."

Gov. Ross Barnett announced today the game had been shifted from the Oxford campus to Jackson in the wake of desegregation violence at Oxford.

SILLERS NOTEDLV

(MORE)

WX RZ836PED

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SILLERS NOTEDLY

(MORE)

WX RZ836PED

[fol. 1967]

A117NU

Jackson, Miss.—1st add Meredith-Legislature (A112NU)
X X X at Oxford.

Sillers noted that Federal Marshals, Armed Forces and the Justice Department were all involved in tight controls imposed on the campus and asked "Which has the authority to let them play."

A voice in the back yelled "Bobby."

Rep. Jesse Chaffin of Prentiss asked, "I wonder if the NAACP has given its approval?"

Sillers responded, "They have to get permission from lawyer Motley to have the game."

Attorney for Negro James H. Meredith in his successful University desegregation suit was Constance Baker Motley, a Negro New York Attorney for the National Association for the Advancement of Colored People.

RK647PCS NM

A111NU

INSERT (120)

Oxford, Miss., NL Meredith roundup, A25NU, insert after 3rd graf: "The Government X X X homecoming events,"

Gov. Ross Barnett guaranteed transportation to Jackson for all students who wanted to see the game. He said the money would not come from the State treasury but would be provided from private sources.

Meanwhile the Justice Department disclosed a total of 166 Marshals, including specially deputized border patrolmen and Bureau of Prison personnel, were wounded during the rioting at Oxford. The force of 358 Marshals suffered 39 per cent casualties. Including 29 cases of gunshot wounds and some acid burns, the Department said.

The Department said eight Deputy Marshals were hurt at the campus riots before tear gas was used against demonstrators.

Meredith paid his first visit to the University library today and checked out a book without incident. Two Marshals remained in the hall.

As the X X X 4th graf.

RK634PCS

[fol. 1968] A147NU

INSERT

OXFORD, Miss.—NL Meredith roundup, A25NU, insert after 4th graf: "Gov. Ross x x x private sources."

At Washington, the Army said it will release some 3,500 Mississippi National Guardsmen from federal service at midnight tomorrow. They were called into active service following Sunday's campus riots.

The remaining 4,500 guardsmen were being authorized to return to their homes and jobs—without change in their status on active federal duty, the Army said. Personnel in major Army units in the Oxford area are not affected by the release order.

Meanwhile, the x x x 5th graf.

AS821PCS NM

A161

CORRECTION

OXFORD, Miss., NL Meredith roundup, A25NU, read in 7th graf: "Meanwhile, the x x x Department said."

"x x x the force of 538 Marshals suffered 30 per cent x x x" (correcting figure and percentage)

THE AP

—DASH—

CORRECTION

OXFORD, Miss., with Meredith, A107NU, read in 2nd graf: x x x "and deputy x x x were wounded."

"x x x suffered 30 per cent casualties x x x" (correcting percentage).

THE AP

AS917PCS

[fol. 1969] S42NU

WITH MEREDITH (120)

OXFORD, Miss., Sept. 4 (AP)—Army ROTC students in civilian clothes, saying they volunteered, today began a sweeping cleanup of the University of Mississippi campus.

The students, using brooms and burlap sacks, went after every scrap on the beautiful tree-lined campus where Sunday night's riots killed two and injured 75 persons. They collected tear gas shells, broken glass, sticks, rocks, bricks—even cigaret butts.

"When we're finished," one said, "there won't be a scrap left."

But, there will remain some evidence of the bloody rioting—the bullet marks on the Lyceum building and angry black burns in the green campus grass where the teargas shells exploded.

Some ashes from six burned vehicles remain on the winding blacktop road encircling the area.

AS551PCS

A176NU (AX FW)

INSERT

OXFORD, Miss.—Night lead Meredith roundup (A25 NU), previously inserted in A111NU, insert following after

9th graf (in insert A111NU), "Meredith paid x x x the Hall."

Meredith also ate his first meal in the university cafeteria tonight. Accompanied by three U.S. Marshals, he went through the serving line shortly before 7 P.M.

Some 150 students were in the cafeteria. Four girls two tables away got up and left, apparently without finishing their meals.

Meredith drank a glass of milk and toyed with his meat and three vegetables.

As he left, a small crowd of students jeered and cursed as Meredith and the Marshals got into a car and drove off.

As the x x x etc 10th graf, A25-111NU

HM1054PCS NM

[fol. 1970]

PLAINTIFF'S EXHIBIT 9

Thursday, October 4, 1962

DAY RECORD

[fol. 1971] A2NU (INSERT AND LD RDP)

2ND LEAD MEREDITH ROUNDUP (250-UP)

By Van Savell

OXFORD, Miss., Oct. 4 (AP)—The Defense Department today forced the University of Mississippi to cancel its formal homecoming festivities, and transfer Saturday's football game away from the troubled campus. The game will be played in the state capital of Jackson, 170 miles away.

The ultimatum resulted from official fears that an influx of 30,000 football fans might spark new disorders over the forcible integration into Ole Miss of Negro James H. Meredith.

A traditional Friday night homecoming dance, a parade, outdoor pep rallies and bonfires—all were cancelled.

However, one sign of an increasing return toward normal on the campus was the announcement that more than 300 of 400 U.S. Marshals were being withdrawn from duty here. Meredith's escort of Marshals to take him to and from classes was cut in half, from six to three. There have been no disorders of significance since rioting claimed two lives last weekend.

Nevertheless, from Washington came an assessment of the situation on the campus as still "fairly tense." An official there could see no possibility of removing Meredith's escort entirely, and said he probably would need federal protection as long as he stays in the university—which may be 18 months or longer.

Mississippi University Chancellor J. D. Williams said of the decision to transfer the football game with the University of Houston:

[fol. 1972] "The Ole Miss campus is secure and a condition of near normalcy under the circumstances is rapidly returning. Less than 60 students have formally withdrawn and some of them may return by Monday

"We have been advised by Robert S. McNamara, Secretary of Defense, and Cyrus R. Vance, Secretary of the Army, from Washington, concerning our homecoming game—that it be played in Houston or Jackson, or that the game be cancelled."

One disgruntled student said of federal officials:

"If they want to tell us every little thing we can do, they ought to put us under martial law."

However, another student expressed relief over transfer of the game and added:

"We've had enough trouble here without inviting the Red-Necks in for a football game."

Meredith, 29, the first Negro knowingly admitted to the university in its history, had already planned to leave the campus for the weekend.

Meanwhile, Mississippi Gov. Ross Barnett and a group of Oxford clergymen made separate pleas for obedience to law and order in the integration crisis.

Barnett, who x x x 10th graf original roundup A8.

AS1114ACS

[fol. 1973] A8NU (BJT)

PMS BUDGET

MEREDITH ROUNDUP (700)

BY VAN SAVELL

Oxford, Miss., Oct. 4 (AP)—Gov. Ross Barnett of Mississippi and Oxford clergymen made separate pleas today for obedience to law and order as Federal marshals grimly predicted new incidents at the University of Mississippi.

The fear of new violence in an area where two men died hinges around the football game Saturday between Ole Miss and the University of Houston. About 30,000 are expected for the game, the focal point of homecoming celebrations.

James H. Meredith, the first Negro knowingly admitted to Ole Miss, is not expected to be in Oxford this weekend. The 29-year-old Meredith, officials said, has plans which will take him off the campus.

University officials insisted the game was on.

Justice Department officials were not so definite.

Edwin Guthman, the Justice Department's top agent on the scene, took this view:

"We realize how important this weekend is to the college and to the alumni. On the other hand, we don't want any more riots or violence. We must make an assessment. There has been a major disturbance here, two people killed, and numerous others injured."

Guthman conferred at McClean, Va., with Atty. Gen. Robert F. Kennedy last night. Guthman said the game

can be shifted to another site, "if the facts warrant it in the judgment of the military and the Department of Justice."

Guthman said the Attorney General wanted a full run-down on the Oxford situation, including last Sunday JS RI

Oxford situation, including last Sunday's riots.

Barnett, who defied the Federal court order to admit Meredith, appeared on a Jackson television station and urged Mississippians to "be calm, be patient.

"Let's by all means avoid violence. Let's maintain law and order."

[fol. 1974] The clergy of Oxford, all but one denomination, asked the people for a "time of repentance Sunday." A joint statement asked for "acceptance of the actions of the court and whole-hearted compliance with these as individuals and as a state."

~~The~~ military garrison, which at one time totaled 12,000, reduced its strength by nearly 4,000 yesterday. But the redeployed troops were not beyond recallable distance.

In other developments:

—Sheriff Sol Cox at Holly Springs, Miss., said he stopped a convoy of five car loads of U.S. Marshals and said four of them were "intoxicated, extremely arrogant and resisted arrest."

A9NU

Chief U.S. Marshal James McShane at Oxford said he knew nothing of the incident. And in Washington, a Justice Department spokesman said an investigation "shows that no one in these cars haem been drinking." The spokesman said the cars were stopped and searched without authorization.

—A group of Ole Miss professors said they had evidence that efforts to place the blame for last weekend's rioting on Federal Marshals was unfair and almost completely

false. The University's chapter of the American Association of University Professors approved a resolution calling for an investigation by proper authorities.

—Alfanette Bracy, a 21-year-old Negro student at Jackson State (Negro) College, told newsmen she had received "just a receipt" in answer to her application for a transfer to Ole Miss. She said she applied last July.

[fol. 1975] —The FBI said it would make ballistics and other tests to try and solve the slaying of French newsman Paul Guihard, 30, and Ray Gunter, 23-year-old Oxford handyman. Both were killed by gunfire last Sunday night on the college campus.

—The four Mississippi National Guard units called into active service during the peak of the University crisis drew "the highest praise" from Army Secretary Cyrus R. Vance. He said he considered the Mississippians' actions as exemplifying "the finest soldierly qualities of discipline, devotion to duty and royalty."

—The Orlando, Fla., Sentinel said last night it had learned from "a source close to the White House" that Meredith would transfer to the University of Miami. The newspaper did not amplify the report. Miami has been desegregated for some time.

The Justice Department said there was "absolutely nothing" to the report Meredith planned a transfer.

In his 5-minute TV appearance, Gov. Barnett said "deep anger and resentment" still dwelt among Mississippians since troops were called in.

"I am informed that citizens have been detained and pushed around at the point of a bayonet and searched without a warrant," the 64-year-old Governor said. "This will in no way weaken our courage or deter our cause."

He urged the people to leave the matter to the state and local government.

UM110ACS NM BJT

[fol. 1976] A57 (WX FW)

MARSHALS (190)

Holly Springs, Miss., Oct. 4 (AP)—A convoy of five car loads of U.S. Marshals was stopped here last night after Sheriff Sol Cox said he received an anonymous call from Memphis "that a group of drunken Marshals were headed toward Oxford."

Cox said four of the occupants, none of whom was driving, were "intoxicated, extremely arrogant and resisted arrest." He said he took a quart of wine from one of the four.

The sheriff identified the four as border patrolmen deputized as Marshals. He said all four were armed.

In Washington, Edwin O. Guthman, Justice Department Public Information Officer, said "Our investigation shows that no one in these cars had been drinking."

"If there was someone intoxicated," the sheriff should have made an arrest," Guthman said.

Cox said he turned the four over to the officer in charge of the convoy after notifying Tyner Young, Chief Deputy in charge of U.S. Marshals at Oxford, site of the University of Mississippi.

Guthman said the Marshals and border patrolmen were returning from Memphis with five automobiles which had been repaired after Sunday night's rioting.

"They were stopped and searched without authorization," Guthman said.

HL620AED

[fol. 1977] A142NU

U R G E N T**FIRST LEAD MEREDITH—FOOTBALL (A135NU)**

Oxford, Miss., Oct. 4 (AP)—The University of Mississippi today skirted the possibility of trouble at Saturday's

homecoming football game with Houston by switching the game site to Jackson.

The announcement came from the University Athletic Department but Assistant U.S. Atty. Gen. Nicholas Katzenbach said he believed the decision was made by the Department of Defense.

The switch came several hours after Federal Marshals had grimly predicted incidents at the game in the wake of the University's admitting a Negro student. Riots swept across the Oxford campus last weekend and two men died from gunshot wounds.

Jackson's new Municipal Stadium will host the game at 2 P.M. (CST), and is expected to attract about 30,000 fans.

A143NU

Mississippi Gov. Ross Barnett, who defied the Federal Court order to admit James H. Meredith, a 29-year-old Negro from Kosciusko, Miss., offered free transportation for the game to all Mississippi students. Jackson is about 170 miles south of Oxford.

The swap brought this comment from Ole Miss halfback Louis Guy:

"I wish they'd make up their mind once and for all. We'll probably dress out in Jackson Saturday and they'll tell us the game is set for Memphis."

A144NU

Today's announcement came after a conference in McClean, Va., last night between Atty. Gen. Robert F. Kennedy and Justice Department Public Information Officer Edwin Guthman. Guthman has been in Oxford several days and said while the Justice Department did not want to interfere with the game, "We don't want any more riots or violence."

Guthman said X X X 9th Graf Meredith roundup (A8NU).

UM943ACS NM

[fol. 1978]

PLAINTIFF'S EXHIBIT 10

B1XF

URGENT

2nd LEAD WALKER (200)

Oxford, Miss., Nov. 21 (AP)—Former Army Maj. Gen. Edwin A. Walker today testified he felt he did not receive fair treatment during service with the U.S. Army.

Walker resigned from the Army and refused retirement pay when he was relieved of command of the 24th Division in Germany. His testimony came on the second day of a hearing in which he seeks to erase from court record a mental examination requested by the Government.

The text was ordered in connection with Federal charges of seditious conspiracy and inciting insurrection filed after rioting which killed two men on the University of Mississippi campus following the arrival of Negro James H. Meredith.

Walker said that he was relieved of command without investigation after a brush with the Army newspaper "Overseas Weekly." Atty. Clyde J. Watts of Oklahoma City, Okla., described the paper as a "Scandal Sheet."

Walker said the Overseas Weekly had quoted him falsely as having described former President Harry S. Truman and others as Communists.

Walker also described details of his arrest on Oct. 1, the day after the campus riot. He said he was confident that he would have made \$100,000 but was flown to a Federal Prison Hospital in Springfield, Mo., in a border patrol plane.

The questioning, conducted by Watts, made no reference to his activities on the Ole Miss campus.

Dr. Manfred S. Guttmacher of Baltimore, one of the nation's best psychiatrists, said his study of WXX documents, newspaper clippings and medical records of Walker

indicated that he had shown evidence of grandiosity, and defective judgment.

Referring to a press conference held by Walker in Dallas, Tex., last Sept. 27, Dr. Guttmacher said, "I felt that Mr. Walker's replies were unusually slow and there seemed to be some confusion as to the meaning of the questions.

"There was the element of grandiosity in 'There are thousands going to Mississippi, not only because of my interest.'"

Dr. Guttmacher said he felt Walker had shown defective judgment in blacklisting certain books from camp libraries when he had not read the books.

After brief statements by Robert Morris of Dallas, another Walker attorney, the hearing recessed until 2:30 P.M. (CST).

(PICKUP AVBL COPY)

LM/VHS

[fol. 1979] NU

Upcoming first take on Walker-McShane. Still unable find D2JX and no prospects

XF

LM1122PCS B N

(Advance for PMS of Thursday, November 22)

WALKER (RPP UP)

WALKER (500)

(ADVANCE) . . . Oxford, Miss., Nov 22—(AP—Former Army Maj. Gen. Edwin A. Walker is competent to stand trial "on such criminal charges as may be presented," U. S. Dist. Judge Claude Clayton ruled late yesterday.

The ruling ended a two-day hearing to determine whether there was reasonable cause of was reasonable cause for a mental examination of the 53-year-old Walker.

The two main issues were a defense motion to erase from Walker's record an examination ordered by the court after his arrest here Oct. 1 and a Government motion opposing such an elimination.

Judge Clayton studied the evidence during a brief recess and then (1) overruled the defense motion, (2) said he found that "reasonable cause does exist for psychiatric examination" and (3) said he was willing to accept the report on the mental test which had already been made.

Then court recessed again while Government and defense attorneys conferred. Then they said they were willing to accept the report of the examination mde Nov. 8-10 by Dr. Robert L. Stubblefield, Professor at the Southwestern Medical School at Dallas, Tex.

[fol. 1980] B16XF (CO)

When the hearing resumed a few minutes later, Judge Clayton announced the report had been opened and read for the first time.

"It was essentially negative," the judge said of the Stubblefield Report. "No opinion was expressed. It did not say whether he was sane or insane".
whether he was sane or insane."

However, the judge added tht from his observation of Walker's behavior while on the witness stand he had he had "found that this man is competent" to aid in his defense in such criminal charges as may be presented.

"This, so far as I am concerned, brings to an end this hearing."

Walker was arrested on charges of seditious conspiracy and inciting insurrection in connection with the rioting in which two men died and scores were injured on the University of Mississippi campus AFE of Mississippi campus on Sept. 30 after Negro James H. Meredith arrived.

While the Walker hearing was nearing an end, Chief U. S.

Marshal James P. McShane of Washington surrendered to LA Marshal James P. McShane of Washington surrendered and was arrested on charges of inciting a riot and breach of the peace during the Ole Miss rioting. He turned himself in to Sheriff Joe Ford of Lafayette County and then was held in custody in the Federal Courthouse for three hours.

[fol. 1981] B17XF

Judge Clayton released McShane on a writ of habeas corpus in which the Department of Justice claimed he had acted as a Federal Official. He will be given a hearing in late January.

The Lafayette County Grand Jury last Friday indicted McShane and another person who has not been identified other than being a non-resident of Mississippi.

Clyde J. Watts of Oklahoma City, Okla. one of Walker's four attorneys said Judge Clayton's decision would be appealed—assuming that it can be appealed—on grounds that Walker's constitutional rights had been violated.

Wakjer said after TGE G

Wakjer said after TGE GEARURG

Walker said after the hearing he felt he had been subjected to a "great injustice." In an interview taped for television broadcast he added that he felt that he now had a criminal record because of his stay for a few days in the U. S. Medical Center at Springfield, Mo.

In a summation of the issues, Judge Clayton told the court that the legality of Walker's arrest was not before the court at this time.

[fol. 1982].

"If and when an indictment is returned stemming from the charges," the judge said, "that will be the time and place for the question to be SXXX the question to be explored."

Walker's attorneys had contended that the examination was illegally ordered because Walker had not been faced

with a bill of information nor had he been indicted by a Federa Grand Jury.

Because there are no facilities to house Federal prisoners in Oxford, Walker was foxx flown in a border patrol XXXXX plane to Springfield on Oct. 2. He was releasd on Oct. 6 after making bond of \$50,000—half the amount originally set.

MORE

LM1139PCS D NM NOH

B18XF

OXFORD, MISS

B18XF

(380)

OXFORD, MISS—FIRST ADD WALKER (B14.:1 C1
B18XF

(380)

Oxford, Miss-First add Walker (B14 CQ-17XF) X X X
originally set.

When Judge Clayton said he had decided that Walker needed a mental examination, he had been "especially impressed with the testimony" of Dr. Manfred S. Guttmacher, Baltimore, Md., psychiatrist who was the fourth and final government witness.

"To my mind," the judge continued, "he impressed me as being highly intelligent, exceptionally objective, extremely cooperative, a man obviously greatly experienced in the fields with which we are concerned."

Judge Clayton also said he knew more of Walker's career as a soldier and officer than had been presented in evidence.

"I have long admired his service in that capacity," the judge continued. "I have the greatest respect—that, too, goes outside the record."

Dr. Guttmacher, whose testimony opened the final days, said that on the basis of evidence supplied him by the government he had detected gradiosity, confusion and defective judgment on Walker's part.

[fol. 1983]

"There is a possibility that [illegible] has been a deterioration in the mental processes of General Walker in the last year or two," he said.

He repeatedly said he believed a full mental test was needed. At one point he said there is "sufficient smoke to see if there is any fire". Later he said "There are suspicions to warrant further exploration."

Walker was questioned only by his attorneys. He told of arriving in Oxford and details surrounding his arrest and overseas service when he was Commander of the 24th Division in Germany.

He was reliv

He was relieved of the post and reprimanded for p

He was relieved of the post and reprimanded for political indoctrination of troops. Later he resigned from the army.

(".878 586)M

"Did you come into contact with a scandal sheet known as the Overseas Weekly," he was asked.

Walker said he had. He described it as a scurrilous publication.

B19XF

In reply to another question, Walker said he had been relieved of his command without an investigation, that he had not—as had been alleged—described President Harry S. Truman or anyone else as a communist.

No mention was made of details of the Ole Miss rioting, but Walker said the charges against him "Are for forcibax". Walker said the charges agiinst him "Are for forcible assault, resistance, intimidation, impeding and interfering with Marshals in performance in their duties, insurrection and seditious conspiracy."

LM1230ACS B MN

1370

[fol. 1984]

SHREVEPORT

NY CALLS YOUR ATTN TO A184, INSERT SARK
SPOTLIGHTER, U ASKED.

NU

NOV 22 UT1232ACS BC

LO UT

NU

HOW MUCH MOE

NU

HOW MUCH MORE WALKER YOU WANT;?

XF

LM1233ACS B NM

XF

[Illegible] ENUF THANKS

NU

[fol. 1985] B1.1JA

(FLYING FARMER)

At dawn skies will be clear to scattered above 10,000 feet with unlimited visibility.

Surface winds northwest 7-14 mph strongest over northern portion of the mid-South.

JHALL834PCS 11/21/62

BI BA

BATON ROUGE, Nov. 20 (AP)—Rupert Malta filed suit in U. S. District Court Wed. asking for \$108,680 for injuries he claimed he received in a house explosion last April.

Rupert named a construction and utilities company and the insurers of the construction firm as defendants.

Malta charged negligence on the part of the construction company for "in some manner disturbing high pressure lines causing the lines to rupture and escape gas into the home of Marie Heatly."

The suit CC TAINL 7A

INL

The suit claims "While Malta was staying in th Heatly house with the permission of the owner, he investigated a noise, and while doing so, was blown from thehouse in an explosion which blew out the wall of th bathroom.

MMalta was taken to Charity Hopx x x Hsx x x Hospital F with burns over 80 per cent of T his body, thesuit contends.

EM835 PCS

DM

[fol. 1986] B2BA

BATON ROUGE, Nov. 20 (AP)—Dist. Judge Fred S. Leblanc administered a five-year sentence to Dr. Malcom Gray Pierson Wed. on condition the physician enter a hospital for treatment.

The 38-year-old doctor pleaded guilty to being a drug addict.

Pierson was arrested earlier in the week on 125 counts of illegally obtaining narcotics.

EM906 PCS

B14XF

OXFORD, MISS—NIGHT LEAD WALKER INSERT WHERE APPLICABLE

1372

Commenting on the hearing, Walker said tonight in an interview taped for television broadcast that he felt "xxx", felt "a great injustice" had been done to him.

He also said he had been harassed by federal psychiatrists xxxxxxxxxxxx

Walker

. xxx psychiatrists.

Walker said he had been given a criminal record through his stay in the federal institution at Springfield, Mo.

LM905PCS

[fol. 1987] NU

Suggest Dallas might want following on CCC re Walker report

• XF

LM710PCS B

BZ

B7XFV

CF

YR B6XF, what NY is asking are quotes re the Truman-Communist comments. AVBL?

NU

NOV 21 RT 712PCS B NM C

NU

Re YR 712PCS only reference find is that Walker was asked if he had described Truman and any others as Communists.

"I had not mentioned President Truman or called anyone a Communist," Walker replied

(End of all reference to Truman)

XF

LM713PCS D

[fol. 1988] B7XF

WITH

WALK

ER (1,200)

OXFORD, Miss., Nov. 21 (AP)—Following is the psychiatric report of Dr. Robert L. Stubblefield, Professor and Chairman of the Department of Psychiatry of the Southwestern Medical Schoolsxx School, Dallas, Tex., on Edwin A. Walker and entered today at a federal hearing for the former Army major general:

PSYCHIATRIC REPORT

EDWIN A. WALKER

This report is written to inform you on the psychiatric evaluation of Edwin A. Walker conducted pursuant to order No. W-C-29-62. After a conference which was attended by Mr. Walker's attorneys (MMr. Watts, Mr. Matthews, Mr. Morris) and Professor Charles Webster and myself, I requested that Mr. Walker appear for the psychiatric evaluation. My purpose was to obtain material which would aid you in your decision about his competence to stand trial in your court. You wanted material in order to deal with three questions: (1) Whether or not the defendant is presently insane, (2) whether or not the defendant is sufficiently competent to understand the the defendant is sufficiently competent to understand the

KLLLEGT

allegations pending against him, as shown by the complaint now pending against him in the Northern District of Mississippi, and (3) whether or not the defendant is sufficiently competent to properly assist in his own defense.

Mr. Walker pe

[fol. 1989] Mr. Walker presented himself to me on Thursday, November 8, 1962 at 2:00 P. M. After a 1½ hour psychiatric interview, I recommended that he enter the psychi-

atric ward at Parkland Memorial Hospital as an inpatient for further observation and study. He was admitted at 4:00 P. M. and was cooperative throughout the examinations and procedures. He was released on a pass on his 53rd birthday on Saturday morning. He returned in the evening and was tentatively discharged from the hospital on November 10, 1962 at 10:00 P. M.

B8XF

Summary of findings is as follows:

1. Physical health—essentially normal.
 - A. Physical examination—no abnormal findings except a slight deafness in the right ear and marked astigmatism, which is corrected by glasses (examination by A. W. Deloach, M. D., a member of my staff)
 - B. Laboratory examinations—normal ranges for blood and urine studies
 - C. X-rays of skull—normal
 - D. Electrocardiogram—normal
2. Additional special procedures
 - A. Electroencephalogram—normal
 - B. Urine studies—no evidence of current use of tranquilizing drugs
3. Psychological tests—the report by Irwin Jay Knopf, Ph. D., a diplomate of the American Board of Examiners in professional psychology, and a member of my staff, states that Mr. Walker is functioning currently at the superior level of intelligence. On the Wechsler adult intelligence scale his reasoning, judgment, vocabulary, fund of information, and organizational ability were all above average for his age group.

4. Psychiatric interviews were conducted on:

- A. Thursday, November 8, 1962 2:00 P. M.
- B. Friday, November 9, 1962 2:00 P. M.
- C. Saturday, November 10, 1962 10:00 A. M.
- D. Saturday, November 10, 1962 8:00 P. M.

(Jointly with Andrew Watson, M. D., University of Michigan School of Medicine and School of Law)

[fol. 1990]

B9XF

IMPRESSIONS:

Mr. Edwin A. Walker is a 53 year old single, white male, who is alert, friendly, and cooperative. He was born at Center Point, Texas and was reared on his parents' farm. He received his education in the local grammar school, attended Schreiner Military Institute. Upon completion of high school, he entered the Military Academy at West Point, in 1927, and graduated in 1931. He has had a long and distinguished military career, and has received additional education and training in the Services Special War College. He participated in the Kiska, the Italian, the Southern France invasions of World War II, in the Korean War, in the Little Rock crisis and the German occupation. He resigned from the Army and refused his retirement privileges in order to be free to express his opinions about certain governmental policies re the procedures for indoctrination of troops concerning communism.

The following elicited replies point out the awareness of Mr. Walker concerning the nature and the gravity of the charges against him.

When I read the specific charges which were presented in the northern district of Mississippi Federal Court, Mr. Walker replied:

1) "That means forcibly assaulting, resisting, and impeding the United States Government, which means you forcibly intend to stop them and did use force to stop them. I feel I can relate the events in a precise way."

2) "It means you inspire others and make an effort to overthrow the government."

3) "It means that you join with others to conspire against the authority of the U. S. Government and attempt to delay and prevent their action. These are severe charges and they carry a severe penalty with them."

[fol. 1991]

B10XF

After discussion with my counsel, I directed various questions to Mr. Walker concerning the nature of the proceedings of criminal trial. In my opinion, he revealed his awareness in his discussion of the procedures in a military investigation which occurred in Germany.

"When a soldier committed an act against another soldier, my role was to notify the civilian authorities, our own military police, the judge advocate, and the investigating team. Evidence was gathered and turned over to the civilian authorities if that was indicated by the nature of the crime." Mr. Walker continued and described in detail and correctly the usual procedures of a military court.

The following factual material would indicate that Mr. Walker has an intact, recent, and remote memory system. His specific responses to questions were satisfactory in many areas.

SPC

Specific responses to questions were satisfactory in many areas, for example:

1. Events in the Italian Campaign.
2. Events in the Korean War.

3. Ability to calculate, recall numbers, knowledge of current information.
4. Performance in the intelligence tests.

[fol. 1992]

B11B

B11XF

Mr. Walker has led an active life physically; currently, he states he eats well, sleeps well, and exercises moderately. He denies specific symptoms, hallucinations, delusions, addiction to drugs or alcohol, use of tranquilizing drugs. There is no clinical or laboratory evidence which would indicate any physical or toxic condition which would affect adversely his ability to perceive his environment, to evaluate his environment, and to develop effective and appropriate actions in dealing with problems.

In the psychiatric examinations, no effort was made to elaborate a fully detailed picture of (U/L) why (U/L) Mr. Walker functions in his present state, nor whether or not there has been any particular change in his mode of psychological operation, since this was not judged by my staff and me to be relevant to the questions of his (U/L) present (U/L) mental operations. Rather we set out to evaluate (U/L) how (U/L) he thinks, regulates, executes, and deals with his present thoughts, values, and impulses, especially as they relate to the present charges. We felt able to arrive at some very specific answers to these questions, and found no difficulty in eliciting the full cooperation and assistance of Mr. Walker during the examination.

[fol. 1993]

B12XF

All psychiatric and psychological tests indicate that Mr. Walker appears to be able to deal freely and accurately with his recollections of the incidents leading up to his

arrest and present charges. e can discuss them accurately, and without distortion noticeable to the examiners. He was able to describe fully his opinions on the charges, what they meant, what kinds of defensive tactics he intends to employ, how his lawyers are working with him and the unfolding of the events which led to the present charges. However, in regard to the questions of the (U/L) reasons (U/L) for his involvement, he did not feel that whether or not there were emotional forces of which he is not fully aware (and that might possibly relate to the legal question of specific intent and motivation) were properly a part of this report. It is our impression that the court in this case at this time is (U/L) not (U/L) concerned about Mr. Walker's ability to understand fully, the more complex and subtle aspects of his motivation in regard to the acts for which he is charge. If it were, and if we were asked to evaluate these kinds of questions, it would be necessary to conduct a much more penetrating exploration of Mr. Walker's psychological operations.

[fol. 1994]

B13XF

It may be that some of Mr. Walker's attitudes and feelings about specific events in Mississippi are such that if he were pressed hard to deal with them (as for example in a cross-examination) this might have a definite effect on his composure on the stand. Since we assume that the court does not deal with this possibility in its standard of competence, we have therefore made no effort to explore in detail their nature or possibility.

/s/ ROBERT L. STUBBLEFIELD
ROBERT L. STUBBLEFIELD, M. D.
Professor and Chairman
Department of Psychiatry
Southwestern Medical School

[fol. 1995] B6XF

(WALKER QUOTES ASKD)

Oxford, Miss.—insert night lead x x x Walker x x x

After Walker was put on the stand he went through the formalities of giving his name, age and hometown. Then he spoke in short sentences when asked to tell of his arrival in x x x Oxford last September.

"Upon arriving went one-quarter mile for breakfast," he began. There one hour. Then went to the Ole Miss school grounds and made a circle. Came to town of Oxford. Came to Chourthouse and

A circle. Came to town of Oxford. Came to Courthouse and conversed with Sheriff (Joe) Ford. Went to lunch at Mansion Cafe. It was very late. Had many conferences with press."

The testimony skipped over the time in which the Sept. 30 rioting took place. Walker resumed the account of his activities with the details of his arrest the following day and his trip to the airport to be taken to a fedeaxx federal institution in Springfield, Mo. There were no facilities here to house federal prisoners.

"At the door of the plane I asked where I was to be taken," Walker recalled. "As I mounted the first step I heard a man say 'Springfield.'"

"The plane took off and when we were in the air I asked: 'Illinois?'"

"We are going to Springfield, Mo.," he sadxx said someone replied.

Upon arriving at Springfield he said that he was kept as a prisoner in the maximum security house until Oct. 6 on that day his bond of \$100,000 was cut to \$50,PPP, he made bond and was released.

(END INSERT)

LM648PCS B NNM

[fol. 1996] D24DX

NIGHT LEAD TOLEDOBEND

Baton Rouge, Nov. 21 (AP)—The Sabine River Authority of Louisiana has accepted the low bid of English Electric Corp., Chairman Claude Kirkpatrick said Wednesday, to build twin hydraulic turbines in the Toledo Bend Dam Power Project.

The English firm's bid was approved at a meeting here Tuesday of the Louisiana Authority, Kirkpatrick said, and also has been accepted by the Sabine River Authority of Texas.

The Executive Committee of the Joint Sabine River Authority, he said, will accept the bid formally in Dallas Monday.

Kirkpatrick said the English firm's bid amounted to an overall savings of \$383,000 over the next lowest bidder, Allis-Chalmers.

The English Electric base bid was \$1,292,017, re-evaluated to \$1,677,400. Five firms bid on the project for the \$60 million dam on the Louisiana-Texas border. Kirkpatrick said each was evaluated against a seven-point check list.

JO644PCS 11/21/62

[fol. 1997] B5XF

(NU-INSERT WHERE THEY WILL FIT:)

—0—

Oxford, Miss.—night lead Walker () insert after
GRAF

When the two-day hearing finally ended, Walker strode away unsmiling from the courthouse. A newsman who caught up with him asked Walker how he felt the hearing went.

"Fine, Z was Walker's only comment

—0—

Clyde Watts of Oklahoma City, Okla., one of Walker's four attorneys, said Judge DXX Clayton's decision would

be appealed—"If it is appealable." Watts said he felt that Walker's constitutional FXX rights had been violated by the October order to undergo mental examination.

END INSERTS

LM612PCS B

XF

PLS GIVE GRAF EXPLAINING HABEAS CORPUS
IN RELATION MCSHANE CASE.

NU

Nov. 21 RK622PCS BC

BINU

HOOFBELTS SELECTIONS—FOR THE FAIR
GROUNDS...

- 1....Second Light, Sir Hawley, Tulsa Bee
 - 2....LIL RI,
 - 2....Lil Rix, Eight of Hearts, Coushatta Tribe.
 - 3....Giovanni, Pici-A-A Toria, Bill Me.
 - 4....Fleeting Toni, Dixieland King, Royal Woo.
 - 5....Everett's Son, Be Bee Time, Midway Myorxx Mayor.
 - 6....Air Stride, Missiixx Mission Missions, Elfin.
 - 7....SE
 - 7....Steve Valenti, Shoot Luke, Magic Realm.
 - 8....Bull Story, Toxx Troa, Grand Wizard.
 - 9....Blonde Ruler, Clergyman, Picmar.
- BEST BET—AIR STRIDE (6).

BK624PCS NM

[fol. 1997a] CLERK'S NOTE:

Plaintiff's Exhibit 11—University of Mississippi Plot
Plan appears in POKET to Exhibit Volume.

FORT WORTH STAR-TELEGRAM

FRIDAY, SEPTEMBER 28, 1962

82ND YEAR, NUMBER 240

MORNING

40 Pages in 3 Sections

PRICE FIVE CENTS



were guarding against another attempt to enroll James Meredith, a Negro. U. S. marshals escorting Meredith were recalled 20 miles from Oxford.



BARNETT AT ROADBLOCK—After being in seclusion all day, Mississippi Gov. Ross Barnett arrives at a roadblock near university entrance Thursday night.



—Associated Press Wirephotos

BOBBY EXPLAINS ORDER—Attorney General Robert Kennedy, as he leaves Washington office, tells newsmen danger of bloodshed prompted postponement at Oxford.

Troops Called to Support US Marshals at Ole Miss

1384

[fol. 1999]

PLAINTIFF'S EXHIBIT 14

A148NU

1ST LEAD WALKER (110)

Oxford, Miss., Nov. 21 (AP)—A psychiatrist said today he considered that former army Maj. Gen. Edwin A. Walker had shown signs of grandiosity.

Dr. Manfred S. Guttmacher of Baltimore testified as a hearing resumed into the effort of Walker's attorneys to erase a Federal court order for a mental examination.

Dr. Guttmacher said his study of Walker's records also had disclosed confusion and examples of defective judgment.

"There is a possibility that there has been a deterioration in the mental processes of Gen. Walker in the last year or two," Dr. Guttmacher said.

Dr. Guttmacher said he felt that Walker, 53, needed a full examination for his own good.

Walker's attorneys, 2nd GRAF PRVS (A74AX).

RK1105ACS NM.

A149

A149WX

(120) INSERT

Washn—Kennedy-Housing (A13WX) Insert After 13th Graph "But Kennedy" X X X Anti-Bias Laws:

In a statement today, Leonard L. Frank, President of the National Association of Home Builders, said builders feel that "The health of the home building industry now may be sapped by the executive order."

Builders will do their best to fulfill their responsibilities under the order, he said, but the Federal Government also must use its full resources "to lessen the impact on our nation's economy."

Frank said the survey his organization made before the order "reflected the opinion of many builders throughout the country that such an order would cause a cutback in housing production, have an adverse effect on the entire economy, and consequently on jobs and incomes."

Americans for Democratic Action (ADA) applauded the order and said in a statement: "We call for its vigorous enforcement in the interest of an integrated America."

The White House Order etc. 14th Graph

JK1208PES

A150WK

OZONE STUDY (330)

Washington, Nov. 21 (AP)—The Air Force announced plans today for what it called the most thorough study of atmospheric ozone ever made.

The one-year research program, starting next January, will involve the launching of more than 700 balloons.

Simultaneously every Wednesday noon, Greenwich time, 11 stations will launch balloons carrying a new measuring device, called the Regener Ozonemeter, and radio telemetry equipment to send back the measurements.

The balloons will inflate to a diameter of 25 feet at their maximum altitude of 100,000 feet.

In addition, each station will conduct daily launches for a 15-day period next spring when ozone concentrations in the atmosphere are most intense.

Ozone is oxygen that has been electrically charged. Carrying the faint odor of chlorine, it is poisonous to human beings and can harm materials such as rubber if concentrated.

"Although ozone is a minor constituent of O

(MORE)

RK1211PES

1386

[fol. 2000]

A64

PRECEDE KEY WEST ECONOMIC A25

Havana, Nov. 21 (AP)—The

BUST HITS

A'64NU

U R G E N T

NIGHT LEAD WALKER

Oxford, Miss., Nov. 21 (AP)—U.S. District Judge Claude F. Clayton ruled today that a court order for a mental examination of former Maj. Gen. Edwin A. Walker must stand.

He offered, however, to accept the results of a mental examination given Walker recently in Dallas, Tex.

(MORE)

RK420PCS NM

A65

PRECEDE KEY WEST ECONOMIC A25

Havana, Nov. 21 (AP)—The Government labeled as totally false today reports that Cuba had signed a new three-year economic aid treaty with the Soviet Union.

Responsible diplomatic sources said yesterday Soviet Deputy Premier Anastas I. Mikoyan and Ernesto (Che) Guevara, Cuba's Industries Minister, signed the agreement last week.

As broadcast on a television program, the communique said:

"The Revolutionary X X Fourth Graf Key West Date-line A25.

RK522PES

A66

NIGHT LEAD U.N.—CUBAN (220)

BY MILTON BESSER

United Nations, N.Y., Nov. 21 (AP)—The United States said today it will resume negotiations here soon with the Soviet Union on unresolved issues in the Cuban crisis.

These involve mainly arrangements for on-site inspection demanded by the United States as a guarantee against any new buildup of offensive weapons in Cuba.

U.S. Ambassador Adlai E. Stevenson said in a statement that there has been progress toward conclusion of negotiations with the Soviet Union, as President Kennedy noted yesterday.

"However," Stevenson added, "Other issues remain unsettled and negotiations will soon be resumed with the Soviet representatives.

"We hope they will proceed smoothly and that the matter can be concluded in the Security Council before long. Our next meeting with the Soviet representatives has yet been set."

Informed sources said they did not expect any new round of U.S.-Soviet negotiations before next week.

John J. McCloy, Special Adviser to Stevenson on Cuba and head of Kennedy's Coordinating Committee, is expected to remain in New York for the negotiations.

Vasily V. Kuznetsov, Soviet Deputy Foreign Minister, is here as Premier Khrushchev's Special Negotiator on Cuba. There was no word on the plans of Anastas I. Mikoyan, Soviet Deputy Premier who has been talking to Cuban Prime Minister Fidel Castro in Havana.

Castro is still objecting to on-site inspection and threatening to shoot down U.S. reconnaissance planes.

RK527PES

A67

Lille, France, Nov. 21 (AP)—Jacques Vasseur today left his mother's house in a suburb of Lille for the first time in 17 years.

Now 42 years old, Vasseur went into hiding at the end of World War II rather than face charges of collaboration with the enemy. He was condemned to death in abstentia.

From then until now Vasseur remained inside, hiding in the attic every time the doorbell rang.

But Monday Vasseur was too slow and he was spotted. Officers today returned with a warrant.

RK528PES

[fol. 2001] A71

WITH NL CUBANS-SABOTAGE

NEW YORK, Nov. 21 (AP)—The International Longshoremen's Association, AFL-CIO, appealed to President Kennedy today to tighten security on the nation's waterfronts against the possibility of sabotage.

Capt. William V. Bradley, longshoremen's president, told a news conference the recent arrest of pro-Castro Cubans here on sabotage conspiracy charges prompted his telegram to Kennedy.

The port of New York, he asserted, could be "put out of business" in less than 20 minutes by saboteurs.

The telegram included a warning that a Cuban saboteur could come to the United States and be working on the waterfront within a few days.

"Undoubtedly there are some working on our waterfronts at the present time," it said.

SF543PES

A72NU

(500)

OXFORD, Miss—1st add night lead Walker (A64NU) x x x in Dallas, Tex.

Clayton, recently named commander of the 31st National Guard Division of Mississippi and Alabama troops, expressed the "greatest respect" for Walker's military career.

But he added that the weight of the evidence led him to believe that "reasonable cause does exist for a psychiatric examination."

The ruling came at the end of a two-day hearing on Walker's motion to have the court's order for a mental test stricken from the record.

Shortly before the judge took the motion under consideration, Walker took the stand himself, answering questions put to him by his attorney.

He gave details of his arrest by federal troops on charges of seditious conspiracy and inciting insurrection in the bloody, night-long desegregation riot on the University of Mississippi campus almost two months ago.

But neither he nor his attorney made any mention of his actions the night of the riot.

Walker also discussed his controversial reprimand and loss of command over a troop indoctrination program in Germany. He said the Army treated him unfairly, taking away his command of the 24th Division without investigating the circumstances. Later he resigned from the Army.

Wearing a dark grey suit and a white shirt, Walker spoke in slow, deliberate tones, clearly audible throughout the court room in this tiny north Mississippi town.

Earlier, a psychiatrist, Dr. Manfred S. Guttmacher of Baltimore, described Walker as showing signs of grandiosity, confusion and poor judgment.

Guttmacher said he based his remarks on a study of documents, newspaper clippings and medical records involving Walker.

A67

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RK528PES

[fol. 2001] A71

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SF543PES

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Guttmacher said he based his remarks on a study of documents, newspaper clippings and medical records involving Walker.

Referring to a news conference held by Walker in Dallas, Tex., last Sept. 27, Guttmacher said: "I felt that Mr. Walker's replies were unusually slow and there seemed to be some confusion as to the meaning of the questions."

In reference to one of Walker's remarks, Guttmacher said: "There was the element of grandiosity in 'there are thousands going to Mississippi, not only because of my interest.'"

Guttmacher added:

[fol. 2002] A73NU

There is a possibility that there has been a deterioration in the mental processes of Gen. Walker in the last year or two."

Guttmacher added that his study of Walker's records led him to believe that Walker needed a full examination for his own good.

Walker, 53, faces charges of seditious conspiracy and inciting insurrection in connection with his actions in the riot that erupted on the Ole Miss campus after the arrival of Negro James H. Meredith the night of Sept. 30.

The riot killed two and left scores of students and federal Marshals injured.

Federal troops arrested Walker the next day. Federal authorities released him later on \$50,000 bond with the stipulation that he undergo a mental examination.

Walker's attorneys contended the court order for a mental test violated his constitutional rights. They said no Grand Jury had indicted him, and no U.S. attorney had presented a bill of information when the court ordered the test.

Government attorneys countered that mental tests were legal when ordered after an arrest and before sentence is passed.

Meantime, Walker has undergone the mental test. Results of the test have not been revealed.

The Government contended that his motion to erase the court order was aimed primarily at giving the record the appearance that he submitted to the test voluntarily.

RKTT455PCS

A74

WIREPHOTO ADVISOREZIN

A74'NU

BULLETIN

OXFORD, Miss., Nov. 21 (AP)—Chief U.S. Marshal James D. McShane gave himself up for arrest here today on charges of inciting to riot and breach of the peace growing out of the University of Mississippi desegregation riots.

RK457PCS NM

AAO

A75CX

UNDATED THANKSGIVING DAY HOLIDAY
DEATH LOG

By the Associated Press

6 P.M. EST, the log of deaths in traffic accidents, fires and from miscellaneous causes over the Thanksgiving Day weekend begins.

WZ457PCS NM

TN

A76WX

CORRECTION

WASHINGTON—NL Housing (A62WX) 2nd graf "From other quarters x x x demanding." Read it x x x Civil Rights groups have been demanding. (Inserting groups).

THE AP

PE558PES

WIREPHOTO ADVISORY

Upcoming: three pictures on attempted rescue of sign worker electrocuted at Chicago installation.

AP-Nov. 21

JS558PES

A78KX (MINISTER AND MISSILE WARN)

(300) NIGHT LEAD (SEE WIREPHOTO WE1)

WICHITA, Kan., Nov. 21 (AP)—A married Baptist minister and a 16-year-old girl, missing from their homes in Tatum, Tex., since Nov. 2, were found today living together in Wichita.

The Rev. LeRoy (Caps. L, R) Daniels, 27, pastor of the Christal Farms Baptist Church in Tatum, was arrested on a Texas charge of contributing to the delinquency of a minor.

Flora Jean Cole, who had been the lead singer in his choir and an honor student in high school, was taken to a Home for Girls.

Daniels agreed to waive extradition to Texas. He declined comment but police quoted him as saying, when asked why he and Flora Jean had left Tatum: "It's rather obvious, isn't it?"

V Flora Jean is a brown-eyed blngfeet-2,awly 90 P

(MORE)

MU/RK502PCS

[fol. 2003] A79'NU

BULLETIN MATTER

OXFORD, Miss—1st lead McShane (A74NU) x x x riots.

District Attorney Jesse Yancy Jr. said McShane, who was indicted last Friday by a County Grand Jury, was ex-

pected to seek release on a writ of habeas corpus momentarily before U.S. District Judge Claude F. Clayton.

McShane was being held in the Federal Court Building here, Yancy said.

The District Attorney said McShane appeared unexpectedly after learning of the indictment.

RK503CS NM

A80NX

It?"

FIRST ADD NIGHT LEAD (A78KX) X X X ISN'T
A80KX

(200) WICHITA, Kan.—1st add nite lead enamored couple (A73KX) xx it?"

Flora Jean is a brown-eyed blonde who stands 5-feet-2 and weighs only 90 pounds.

Police said that when they confronted her in a one-room basement apartment she shared with Daniels she readily agreed to go with them but said firmly:

"I do not want to go home. I won't stay home. I'll run off."

Police said Daniels had been married four months when he disappeared.

They said Flora Jean told them she and Daniels had seen each other secretly for some time. She said they decided to run away because they thought someone had been following them.

They left following a football game at which Flora Jean marched with her high school band.

The couple told officers they arrived in Wichita Nov. 3, stayed the first night in a motel and the next two nights with friends, whom they declined to identify. They moved into the apartment Nov. 6.

Daniels had been working at a liquor wholesale house, as an order-filling clerk, since Nov. 9.

At Tatum, Mrs. Roy Cole, the girl's mother, was quoted as saying the girl never had dated. Mrs. Cole said she had known of no association the girl had with the minister except through the choir.

VX508PCS

A81NU

U R G E N T

(150)

OXFORD, Miss—2nd add McShane (A74-79)NU) x x x the indictment.

The Lafayette County Grand Jury, following an investigation of the bloody desegregation riot on the Ole Miss campus the night of Sept. 30, returned two indictments in the case.

Under Mississippi law, the names of persons indicted, and the charges against them, cannot be made public until they are in custody.

McShane was in charge of a team of about 300 Federal Marshals accompanying Negro James H. Meredith onto the Ole Miss campus.

The Marshals, after taking Meredith to a dormitory, set up a circle of men, standing shoulder to shoulder, around the Lyceum Building, where the registrar's office is located.

A crowd gathered and violence broke out. During the night of rioting, two persons were killed and scores more—students, Marshals and others—were injured.

The next morning, as federal troops moved in to restore order, the university enrolled Meredith—the first of his race ever knowingly admitted in the 114-year history of the university.

BK512PCS NM

A82

A82KX

PEARL HARBOR, Hawaii, Nov. 21 (AP)—The Navy has warned mariners to keep out of a 22,500 square mile area of the Pacific south of Johnston Island, presumably because of practice firing of missiles.

The warning covered a period from midnight to 6 A.M. Hawaii time (5 A.M.-11 A.M. EST) today and tomorrow.

The notice was published by the Navy Oceanographic Office in Honolulu.

Spokesmen for the Pacific Missile Range Headquarters at Point Mugu, Calif., and at Kaneohe, Hawaii, declined comment.

VX514PCS

[fol. 2004] A96NU

URGENT

INSERT

OXFORD, Miss.—Night lead Walker (A64-72NU), insert after 2nd graf, he offered x x x Dallas, Tex.

Following a conference with attorneys, Clayton opened a copy of the report on Walker's mental test in Dallas.

He described the report as "essentially negative"—that is, it expressed no opinion on the sanity of Walker. Dr. Robert Stubblefield of Dallas examined Walker.

The judge then added that his personal opinion, after hearing Walker testify earlier today, was that Walker was competent to aid in his defense against federal charges filed against him in connection with his actions in the University of Mississippi desegregation riots.

Clayton, 3rd graf night lead (A64-79NU).

RK604PCS

A97NU

URGENT

FIRST LEAD MCSHANE

OXFORD, Miss., Nov. 21 (AP)—Chief U.S. Marshal James McShane surrendered today on an indictment that charged he incited the Sept. 30 desegregation riot at the University of Mississippi. He was released three hours later on a writ of habeas corpus.

U.S. Dist. Judge Claude F. Clayton released McShane after the Justice Department claimed he was "doing duties as a federal official" on the Ole Miss campus.

The burley, ex-New York policeman was indicted last Friday by a Lafayette County Grand Jury that investigated the campus riot that followed the arrival of Negro student James H. Meredith.

Dist. Atty. Jesse Yancy Jr. said after McShane's release that "The case now rests in the hands of the Federal Court. The Justice Department says he was doing his duty and can not be charged."

"However, the State contends McShane made unlawful acts and should be prosecuted in State Court."

Judge Clayton set a hearing for late January. Yancy said it would "probably last a week and bring out all the testimony of the normal trial."

McShane faces up to 10 years and a \$500 fine if convicted on the State charges of inciting a riot and breach of the peace.

He was held in the Lafayette County Courthouse under custody of Sheriff Joe Ford during the three hours b Sheriff Joe Ford during the three hours before Judge Clayton released him.

The district x x x etc. 4th graf A74-79NU.

RK606PCS NM

A98

A98KX

CORRECTION

SAN FRANCISCO—Sino-Russian interpretive (A53-54), penultimate graf starting "Particularly from," etc., make second sentence read: The Chinese took Tibet in 1955 x x x (took instead invaded and 1955 inste 1950).

THE AP

VX609PCS

[fol. 2005]

A101WX

SUB

0

A101SX

(See wirephotos CX4, 5, 6)

MOUNT PROSPECT, Ill., Nov. 21 (AP)—George F. Tadin Jr., 26, of Chicago, was electrocuted Wednesday as he removed a 10-foot metal overhead sign at a hardware store in Mount Prospect.

Tadin's leg apparently came into contact with a metal wire carrying 7,200 volts. He was killed instantly.

Tadin's father, George Sr., waited on the sidewalk while Tadin worked 25 feet above him.

Both his father and Mount Prospect firemen tried to revive Tadin.

Dr. Michael Ruance, who pronounced Tadin dead, said the victim was burned badly around the face, neck and leg.

The Tadins operated a south suburban Chicago sign erecting firm. They were working on a sign at a Mount Prospect shopping development.

Mount Prospect is a northwest Chicago suburb.

EC627PCS NM

A102KX

A102NU

U R G E N T

(This second lead McShane combines the McShane-Walker developments for members desiring one story)

Second lead McShane

♥ Oxford, Miss., Nov. 21 (AP)—Chief U.S. Marshal James McShane gave himself up to Mississippi authorities today on charges he incited the desegregation riot at the University of Mississippi Sept. 30.

The Justice Department obtained McShane's release three hours later on a writ of habeas corpus, claiming the charges against him resulted from his actions "Doing duties as a Federal official."

The Lafayette County Grand Jury indicted two persons last week in connection with the bloody riot that killed two and injured scores of students and Marshals.

McShane was in charge of Federal Marshals on the University campus the night of the riot.

Under Mississippi law, the names of persons indicted, and the charges against them, are held secret until they are taken into custody.

U. S. Dist. Judge Claude F. Clayton ordered McShane's release and set a hearing for late January.

At the same time McShane was entering the Sheriff's Office to give himself up, Clayton was winding up a hearing involving another of the major figures in the riot—former Maj. Gen. Edwin A. Walker.

Clayton ruled that a court order for a mental test of Walker must stand.

Walker, facing charges of seditious conspiracy and inciting insurrection in connection with his actions the night of the riot, had asked the court to eliminate the order, contending it violated his constitutional rights.

A103NU

Clayton, in ruling that the order for a test must remain in effect, offered to accept the results of a mental examination taken by Walker at Dallas, Tex., earlier this month.

After opposing attorneys agreed, Clayton opened the report from Dr. Robert Stubblefield of Dallas, the Psychiatrist who examined Walker.

Clayton said the report expressed no definite opinion on the sanity of Walker.

The judge added, however, that he felt after hearing Walker testify earlier today that the former Major General was competent to aid in his defense against the Federal charges.

Walker himself testified near the end of the two-day hearing on his motion to strike the court order for a sanity test.

He made no mention of his actions the night of the riot.

He said he thought the army treated him unfairly during his military service, and relieved him of command of the 24th Division in Germany without investigation. The army relieved Walker of command during a controversy over troop indoctrination.

Walker also said he had been quoted falsely in reports saying he described former President Harry S. Truman and others as communists.

McShane, a burly ex-New York Policeman was indicted last Friday by a Lafayette County Grand Jury investigating the campus riot that followed the arrival of Negro James H. Meredith.

Dist. Atty., 4th graf first lead McShane (A97NU)

RT639PCS NM

[fol. 2006] A139

Boston, Nov. 21 (AP)—Republican Gov. John A. Volpe formally asked today for a recount of the Nov. 6 election in which he was defeated in the official tally by 3,091 votes.

1400

Endicott Peabody, the Democrat who was victorious in the official tally, expressed confidence that the result would be unchanged "and I will be inaugurated on Jan. 3."

The recount is expected to start next Tuesday and take at least a week.

The official tally gave Peabody 1,051,653 and Volpe 1,048,562 votes.

LU942PES

ABLBUFFA

A139NU

URVNT

A140NU

URGENT

SECOND NIGHT LEAD WALKER (A64-72NU)

Oxford, Miss., Nov. 21 (AP)—U.S. Dist. Judge Claude F. Clayton ruled today that former Maj. Gen. Edwin A. Walker was mentally competent to stand trial and aid in his defense on Federal charges of insurrection.

No trial date was set for Walker, arrested Oct. 1 after a night of rioting at the University of Mississippi following the arrival of James H. Meredith, the school's first known Negro student.

Judge Clayton accepted a Dallas, Tex., mental test given Walker earlier this month, after attorneys for both Walker and the Federal Government agreed that this test could be used.

A few minutes earlier, Judge Clayton had ruled against a motion by Walker's attorneys to throw out his order for a psychiatric test.

Following a conference XX etc., 3rd GRAF Night Lead Walker, A64-72-96NU

RT845PCS NM

A141

Buffalo, N.Y., Nov. 21 (AP)—About 900 students and 50 teachers evacuated a Junior High School in three minutes today when fire broke out on the stage of the school auditorium.

No one was injured. The blaze caused about \$15,000 damage, firemen said.

"The children heard the alarm, thought it was a fire drill, and the school was emptied in three minutes," said Thomas J. Connors, Principal of Clinton Junior High School.

LU947PES

A142WX

A142NU

URGENT

SUB

Oxford, Miss.—Second Lead McShane (A102-103NU), sub following for 8th GRAF (including PVS insert A112 NU), "at the same X X X Edwin A. Walker."

Clayton also ruled that one of the major figures of the riot—former Maj. Gen. Edwin A. Walker was mentally competent to stand trial and aid in his defense on Federal insurrection charges.

Clayton made the ruling after blocking an attempt by Walker's attorneys to keep the question of Walker's mental competence out of the court records.

Clayton ruled XX etc., 9th GRAF PVS (9th GRAF A102NU)

RT850PCS NM

[fol. 2007] A74AX

(550)

WALKER-MEREDITH

Oxford, Miss., Nov. 21 (AP)—The Government continues today its fight against an attempt to blot out a

court-ordered mental examination for former Army Maj. Gen. Edwin A. Walker.

Walker's attorneys contended yesterday the circumstances under which the order was issued violated his constitutional rights. They said Walker had not been indicted by a Federal Grand Jury nor had a U. S. Attorney presented a bill of information when the test was ordered.

The Government denied any infringement of rights. It said mental tests were legal when ordered after an arrest and before sentence is passed.

A Federal Judge ordered the examination Oct. 2, the day after Walker was arrested on charges of seditious conspiracy and inciting insurrection in connection with a bloody desegregation riot on the University of Mississippi campus. Two men died and scores were injured.

The riot occurred when U. S. Marshals ringed the Ole Miss Administration Building shortly after bringing Negro James H. Meredith to the campus for enrollment.

Meredith's name went unmentioned and the riot itself was not brought up until the first of seven witnesses subpoenaed by the Government testified.

University Police Chief Burns Tatum testified he was about 10 to 15 feet from Walker when the former Major General addressed a group of students in front of the Lyceum Building, the University's Administration Building and scene of the heaviest fighting.

Tatum said he was standing with a group of students, one of whom pointed out Walker to him.

He said he heard Walker, who held a paper cup in his hand, tell the students:

"Col. (T. D.) Birdsong has let you down. Gov. (Ross) Barnett is your guard. Charge!"

Birdsong is head of the Mississippi Highway Patrol which had many units stationed in the campus area.

Other opening day witnesses were Cal Marlin of Miami, Fla., television newsreel cameraman for the National Broadcasting Co., and two psychiatrists—Dr. Charles E.

Smith of Washington, D. C., medical director of the Federal Bureau of Prisons and chief psychiatrist of the Justice Department; and Dr. Manford Guttmacher of Baltimore, Md.

A75AX

A75AX

Marlin's testimony consisted of the filmed report of a statement read by Walker in Jackson Sept. 29, the day before rioting.

"I am in Mississippi beside Gov. Ross Barnett," the statement said. "I call for a national protest rally to the cause of freedom."

The defense objected to the film presentation as irrelevant and immaterial. Judge Claude F. Clayton reserved his ruling on the motion.

The defense hampered at length at a memorandum from Dr. Smith which subsequently was named as a basis for the Government's request to have Walker examined. Smith sent the memo to James V. Bennett, Federal Prisons Director, who sent it by telegram to U. S. Atty. H. M. Ray.

Smith said he based his memorandum on medical records, news stories and a hearing before the Special Preparedness Subcommittee of the Senate Armed Services Committee last April.

Meanwhile, Meredith ate supper last night with an unidentified student and professor at the Ole Miss cafeteria. They were under heavy campus and U. S. Marshal surveillance, apparently because the room of two students was ransacked Friday after they ate lunch with Meredith.

The University Senate took up a resolution to censure the editor of the campus newspaper, The Daily Mississippian, for editorials against student demonstrations and in support of students who have joined Meredith at meal times. The resolution aimed at editor Sidna Brower of Memphis, Tenn., was referred to committee.

XW728AES

AFTER 740AES-AX

1404

[fol. 2008]

PLAINTIFF'S EXHIBIT 14A

A139

INSERT

Guantanamo Bay, Cuba—Korth-Thanksgiving A88 Insert
After 4th GRAF: Been Made.

He added that he will talk tomorrow with Defense Secretary Robert S. McNamara about the return of the 2,800 dependents "and see whether I can't expedite that as much as possible."

"I do not X X X 5th GRAF.

UK938PES

CLR?

CLR.... A140 NEXT.... 949PES

A140KX (WALKER)

(160)

Gainesville, Tex., Nov. 22 (AP)—Former Maj. Gen. Edwin A. Walker of Dallas directed two fire-fighting units today and was credited with a major effort in keeping a farm home from being destroyed by fire.

Loys R. Dugger said Walker, driving alone along U. S. 77, fourteen miles south of Gainesville, noted the woodshed in the rear of the Dugger-farm home ablaze. The ex-general and occupants of the house fought the blaze, which spread to the two-story residence, until fire units from Gainesville and Sanger arrived. Dugger and Charles McSpadden of Denton, who owns the residence where Dugger lives, said Walker then took charge of the fire fighting and assisted in carrying out furniture and personal belongings from the home.

The two-story house was heavily damaged. There was no injuries.

Those at the scene said Walker told them he was returning home from Mississippi. Walker appeared yesterday at a hearing before U. S. Dist. Judge Claude F. Clayton in Oxford. The judge ruled the former general mentally competent to stand trial on charges of seditious conspiracy and inciting an insurrection in connection with Walker's action on the campus at the University of Mississippi during the enrollment of James Meredith, first Negro to attend the school.

GC858PCS NM

AV

A141CX

ADD DEATH LOG

10 P.M. EST: Traffic 134, Fire 8, Miscellaneous 9.
Total 151.

WZ858PCS NM

[fol. 2009] A20

CORRECTION

New York—Longshoremen (A17) 2nd GRAF Make It
X X X Fidel Castro. (Not Castor)

THE AP

KS325AES

A21

URGENT

Seoul, Korea, Nov. 22 (AP)—An American soldier was killed and another injured in a hand grenade attack by North Korean Communist soldiers Tuesday night, U.N. command spokesman said today.

The soldiers were manning a U.N. observation post in the demilitarized zone on the Western Korean front. They

were members of the First Cavalry Division but their names were withheld.

The spokesman said this was the first known attack by North Korea soldiers on an observation post manned by Americans since the Korean Armistice of 1953.

He described it as an "unprovoked, vicious and speedy attack."

The incident occurred near the western end of the 150-mile long demilitarized zone, some 25 miles north of Seoul.

Both American casualties were enlisted men. The injured soldier received wounds in both feet from grenade fragments.

The attackers tossed five Russian grenades. One exploded inside the observation post, 350 yards south of the demarcation line. The spokesman said. Three others exploded on the outside, and one unexploded grenade was found outside the post.

Several U.S. soldiers were in the area, but made no attempt to stage a counterattack. The attackers apparently fled from the scene.

KS328AES

A22AX

PMS BUDGET (570)

WALKER-McSHANE

BY THE ASSOCIATED PRESS

Oxford, Miss., Nov. 22 (AP)—Edwin A. Walker, the controversial former Army Major General, has been ruled mentally competent to stand trial on charges of seditious conspiracy and inciting an insurrection.

U. S. Dist. Judge Claude F. Clayton, who is an Army National Guard Brigadier General, handed down the ruling yesterday at the end of a two-day hearing to determine whether there was reasonable cause for a mental examination of the 53-year-old Walker.

The lean Texan was arrested here Oct. 1 following the desegregation rioting at the University of Mississippi which killed two persons.

Shortly before Clayton ruled in the Walker case, he ordered sons.

Shortly before Clayton ruled in the Walker case, he ordered Chief U. S. Marshal James McShane released from the Lafayette County Jail. McShane had surrendered to Sheriff Joe Ford on state charges of inciting a riot and breach of peace during the rioting.

McShane and one other person—who has not yet been identified—were indicted last week by the County Grand Jury after it probed the rioting, which followed the arrival of Negro James H. Meredith on the University campus.

The judge set no date for Walker's trial. He accepted a mental test given Walker earlier this month at Dallas, Tex.

The judge said the examination made by Dr. Robert L. Stubblefield, Professor at the Southwestern Medical School in Dallas, "was essentially negative. No opinion was expressed. It did not say whether he was sane or insane."

Clayton added that from his observation of Walker's behavior while testifying yesterday he "found that this man is competent" to aid in his defense of such criminal charges as may be presented.

Clyde J. Watts of Oklahoma City, Okla., one of Walker's four

Clyde J. Watts of Oklahoma City, Okla., one of Walker's four attorneys, said Clayton's decision in placing the mental test in the case record would be appealed. Walker said afterward he felt he had been subjected to a great injustice.

Clayton, recently chosen to command the 31st (Dixie) Division of Mississippi and Alabama National Guardsmen, expressed the greatest respect for Walker's military career.

[fol. 2010] A23AX

Walker was questioned by his attorneys during the hearing and gave details of his arrest by Federal troops. Neither

he nor his attorneys mentioned his actions the night of the rioting.

Walker also discussed his controversial reprimand and loss of command of the 24th Division over a troop indoctrination program in Germany. He later resigned his Army commission.

During his testimony, Walker said he had been misquoted in reports saying he described former President Harry S. Truman and others as Communists.

"I had not mentioned President Truman or called anyone a Communist," said Walker.

Clayton said he would hold a hearing for McShane late in January. The Justice Department claimed McShane was "doing duties as a Federal Official" on the University campus.

After the release on a writ of habeas corpus of the husky former New York Policeman, County Dist. Atty. Jesse Yancy Jr., said "the case now rests in the hands of the Federal Court . . . However, the State contends McShane made unlawful acts and should be prosecuted in State Court."

McShane was in charge of a team of some 300 Federal Marshals accompanying Meredith onto the campus.

In other developments:

The Mississippi Senate approved a resolution which blamed rioting at the University on the "ruthless and corrupted administration in Washington headed by the Kennedy Klan (CQ)." The measure drew 12 dissenting votes and faces House action. The resolution also expressed defiance "and utter contempt for the Kennedy Administration."

Meredith left the campus for Memphis to spend the Thanksgiving holidays with his family.

XW342AES NM

1400
A24AQ

(1SO)

Albuquerque, N.M., Nov. 22 (AP)—Sen. Dennis Chavez, was buried yesterday following services attended by thousands of persons whose votes kept him in Congress for more than a quarter of a century. He was 74.

The Democratic Senator died Sunday at Washington of a heart attack after a long battle with cancer.

Vice-President Lyndon B. Johnson, one among many national dignitaries at graveside, called Chavez "the Champion of the least among us."

"We're here today not to say good-bye, but to say 'until we meet again,'" Vice President Johnson said.

"Sen. Chavez was concerned with unity of the hemisphere. . . . and he became the outstanding spokesman for unity and progress in the Western Hemisphere," Johnson said.

The sorrowing Chavez family exhibited controlled composure throughout the ceremonies at the church and at the graveside.

Mexican Senate Leader Manual Moreno Sanchez sent personal messages to Mrs. Chavez, and to the U.S. Senate expressing the sorrow of the Mexican Senate over the death of Chavez.

Mexican senators said Chavez consistently defended Mexico in disputes and that his help was deeply appreciated there.

Among those attending the services were New Mexico Gov. Edwin L. Mechem and his successor Gov.-Elect Jack Campbell. They stood shoulder to shoulder as they paid their last respects to the colorful Democrat who had played such a leading role in the State's political story.

Gov. Mechem will name a successor for Chavez.

JD145AMS

1410

A25CX

ADD DEATH LOG

4 A.M. EST: 28 FTraffic, 0 Fires, 1 Miscellaneous. Total 29.
AB245ACS

X

A26

New York, Nov. 22 (AP)—Funeral services for John Shubert were held as he planned it—on the stage of Broadway's Majestic Theater.

As his widow sat beside the coffin yesterday, friends and business associates read passages from the Bible. No clergyman participated.

Shubert, 53, Managing Director of his family's vast theatrical real estate holdings, died Saturday during a train trip to Florida.

Among those paying their final respects were personal friends, Shubert employes, and stage performers. Interment was at Morristown, N.J.

KS348AES

[fol. 2011]

PLAINTIFF'S EXHIBIT 15

B9XF

IMPE

IMPRESSIONS:

Mr. Edwin A. Walker is a 53 yaer old single, white male, who is alert, friendly, and cooperative. He was born at Center Point, Texas and was reared on his parents' far. He received his education in the local grammar school, attended Schreiner Military Institute. Upon completion of high school, he entered the military academy at West Point in 1927, and graduated in 1931. He has had a long

and distinguished military career, and has received additional education and training in the services special war college. He pat

special war college. He participated in the Kiska, the Italian, the southern France invasions of World War IIN the southern France invasions of World War II, in the Korean War, in the Little Rock crisis and the German occupation. He resigned from the army and refused his retirement privileges in order to be free to express his opinions about certain governmental policies re the procedures for indoctrination of troops concerning communism.

The following elicited replies point out the awareness of Mr. Walker concerning the nature and the gravity of the charges against him.

When I reead

When I read the specific charges which were presented in the Northern District of Mississippi Federal Court, Mr. Walker replied:

1) "Ta

1) "That means forcibly assaulting, resisting, and impeding the United States Government, which means you forcibly intend to stop them and did use force to stop them: I feel I can relate the events in a precise way."

2) "It means you inspire others and make an effort to overthrow the government."

3) "It means that you join with others to conspire against the authority of the U. S. Government and attempt to delay ana and prevent their action. These are severe charges and they carry a severe penalty with them."

B10XF

After discussion with my counsel, I r

After discussion with my counsel, I directed various questions to Mr. Walker concerning the nature of the

processes of criminal trial. In my opinion, he revealed his awareness in his discussion of the procedures in a military investigation which occurred in Germany.

"When a soldier committed an act against another soldier, my role was to notify the civilian authorities, our own military police, the Judge Advocate, and the investigating police, the Judge Advocate, and the investigating team. Evidence was gathered and turned over to the civilian authorities if that was indicated by the nature of the crime." Mr. Walker continued and described in detail and correctly the usual procedures of a military trial.

The following factual material would indicate that Mr. Walker has an intact, recent, and remote memory system. His specific responses to questions were satisfactory in many areas, for example:

1. Events in the Italian campaign.
2. Events in the Korean War.
3. Ability to calculate, recall numbers, knowledge of current information.
4. Performance in the intelligence tests.

[fol. 2012]

B11B

B11XF

MR. WALKR

B11XF

MR. WAKKER HAS H

B11XF

Mr. Walker has led an active life physically; currently, he states he eats well, sleeps well, and exercises moderately

V

STATES HE EATS WEL

BP

STT BH

!!!

B11XF

Mr. Walker has led an active life physically; currently, he states he eats well, sleeps exx well, and exc

t

he staes he eats well, sleeps well, and exercises moderately. He denies specific symptoms, hallucinations, delusions, addiction to drugs or alcohol, use of tranquilizing drugs. There is no clinical or laboratory evidence which would incixxx indicate any py

physical or toxic condition which would affect adversely his ability to perceive his envitonmrnyzn

ability to perceive his environment, to evaluate his environment, and to develop effective and appropriate actions in dealing with and to develop effective and appropriate actions in dealing with problems.

In the psychiatric examinations, no effort was made to elaborate a fully detailed picture of (U/L) Why (U/L) Mr. Walker functions in his present stae, nor

functions in his present state, ~~nor~~ whether or not there has been any particular change in his mode of psychological operation, since this was not judged by my staff and me to be relevn

this was not judged by my staff and me to be relevant to the questions of his (U/L) present (U/L) mental operations. Rather we set out to evaluate (U/L) how (U/L) he thinks, regulates, executes, and deals with his present thoughts, values, and impulses, especially as they relate to the present charges. We felt able to arrive at some very specific answers to these questions, and found no difficulty in eliciting the full cooperation and assistance of Mr. Walker during the examination.

[fol. 2013]

B6XF

WALKER QUOTES ASKD)

Oxford, Miss—insert night lead Walker x x x

After Walker was put on the stand he went through the formalities of giving his name, age and hometown. Then he spoke in short sentences when asked to tell of his arrival in Oxford last September.

"Upon arriving went one-quarter mile for breakfast," he began. Then one hour. Then went to the Ole Miss school grounds and made a circle. Came to town of Oxford. Came to courthouse and a circle. Came to town of Oxford. Came to courthouse and conversed with Sheriff (Joe) Ford. Went to lunch at Mansion Cafe. It was very late. Had many conferences with press."

The testimony skipped over the time in which the Sept. 30 rioting took place. Walker resumed the account of his activities with the details of his arrest the following day and his trip to the airport to be taken to a Federal institution in Springfield, Mo. There were no facilities here to house Federal prisoners.

"At the door of the plane I asked where I was to be taken," Walker recalled. "As I mounted the first step I heard a man say 'Springfield.'"

"The plane took off and when we were in the air I asked: 'Illinois?'"

"We are going to Springfield, Mo.," he said and someone replied.

Upon arriving at Springfield he said that he was kept as a prisoner in the maximum security house until Oct. 6 on that day his bond of \$100,000 was cut to \$50,000, he made bond and was released.

(END INSERT)

LM648PCS B NNM

B24DX

NIGHT LEAD TOLEDOBEND

Baton Rouge, Nov.21(AP)—The Sabine River Authority of Louisiana has accepted the low bid of English Electric Corp., Chairman Claude Kirkpatrick said Wednesday, to build twin hydraulic turbines in the Toledo Bend Dam Power Project.

The English firm's bid was approved at a meeting here Tuesday of the Louisiana authority, Kirkpatrick said, and also has been accepted by the Sabine River Authority of Texas.

The executive committee of the joint Sabine River Authority, he said, will accept the bid formally in Dallas Monday.

Kirkpatrick said the English firm's bid amounted to an overall savings of \$383,000 over the next lowest bidder, Allis-Chalmers.

The English Electric base bid was \$1,292,017; re-evaluated to \$1,677,400. Five firms bid on the project for the \$60 million dam on the Louisiana-Texas border. Kirkpatrick said each was evaluated against a seven-point check list.

JO644PCS 11/21/62

[fol. 2014] B7XF

WITH

WALK

ER (1,200)

OXFORD, Miss., Nov. 21 (AP)—Following is the psychiatric report of Dr. Robert L. Stubblefield, Professor and Chairman of the Department of Psychiatry of the Southwestern Medical School, Dallas, Tex., on Edwin A. Walker and entered today at a federal hearing for the former Army major general:

PSYCHIATRIC REPORT

Edwin A. Walker

This report is written to inform you on the psychiatric evaluation of Edwin A. Walker conducted pursuant to order No. W-C-29-62. After a conference which was attended by Mr. Walker's attorneys (Mr. Watts, Mr. Matthews, Mr. Morris) and Professor Charles Webster and myself, I requested that Mr. Walker appear for the psychiatric evaluation. My purpose was to obtain material which would aid you in your decision about his competence to stand trial in your court. You wanted material in order to deal with three questions: (1) Whether or not the defendant is presently insane, (2) whether or not the defendant is sufficiently competent to understand the the defendant is sufficiently competent to understand the alleged allegations pending against him, as shown by the complaint now pending against him in the Northern District of Mississippi, and (3) whether or not the defendant is sufficiently competent to properly assist in his own defense.

Mr. Walker pe

[fol. 2015] B12XF

All psychiatric and psychological examinations indicate that Mr. Walker appears to be able to

Walker appears to be able to deal freely and accurately with his recollections of the incidents leading up to his arrest and present charges. E can discuss them accurately, and without distortion noticeable to the examiners. He is able

distortion noticeable to the examiners. He was able to describe fully his opinions on the charges, what they meant, what kinds of defensive tactics he exx

of defensive tactics he intends to employ, how his lawyers are

of defensive tactics he intends to employ, how his lawyers are working with him and the

working with him and the unfolding of the events which led to the present charges. However, in recor

the present charges. However, in regard to the questions of the (U/L) reasons (U/L) for his involvement, he did not feel that whether or not there were emotional forces of which he is not fully aware (and that

fully aware (and that might possibly relate to the legal question of specific intent and motivation) were properly a part of this report. It is our impression that the Court in this case at this time is (U/L) not (U/L) concerned about Mr. Walker's ability to undersa

ability to undersa

ability to understand fully, the more complex and subtle aspects of his motivation in regard to the acts for which he is charge. If it were, and if we were asked to evaluate these kinds of questions, it wol

wo

it would be necessary to conduct a mou

it would be necessary to conduct a much more penetrt

it would be necessary to conduct a much more penetrating exploration of Mr. Walker's psychological operations.

B13XF

It may be tnt

It may be that some of Mr. Walker's attitudes and feelings about specific events in Mississippi are such atxx tha

about specific events in Mississippi are such that if he were pressed hard to deal with them (as for example pressed hard to deal with them (as for example in a cross-examination) this might have a definite effect on his composure on the stand. Since we assume that the Court does not deal with this possibility in its ta
ths

this possibility in its standard of competence, we have therefore made no effort to explore in detail their nature or possibility.

/s/ ROBERT L. STUBBLEFIELD
Robert L. Stubblefield, M. D.
Professor and Chairman
Department of Psychiatry
Southwestern Medical School

LM803PCS

[fol. 2016] Mr. Walker presented himself to me on Thursday, November 8, 1962 at 2:00 P.M. after a 1 1/3 hour psychiatric interview, I recommended that he enter the psychiatric ward at Parkland Memorial Hospital as an inpatient for further observation and study. He was admitted at 4:00 P. M. and was cooperative throughout the examinations and procedures. He was released on a pass on his 53rd birthday on Saturday morning. He returned in the evening and was tentatively discharged from the hospital on November 10, 1962 at 10:00 P. M.

B8XF

Summary of findings is as follows:

1. Physical Health—Essentially normal.

A. Physical Examination—No abnormal findings except a slight deafness in the right ear and marked astigmatism, which is corrected by glasses (examination by A. W. Beloach, M. D., a member of my staff)

B. Laboratory Examinations—Normal ranges for blood and urine studies

C. X-rays of skull—Normal

D. Electrocardiogram—Normal

2. Additional Special Procedures

A. Electroencephalogram—Normal

B. Urine Studies—No evidence of current use of tranquilizing drugs

3. Psychological Tests—The report by Irwin Jay Knopf, Ph. D., a diplomate of the American Board of Examiners in Professional Psychology, and a member of my staff, states that Mr. Walker is functioning currently at the superior level of intelligence, on the Wechsler Adult Intelligence Scale his res

reasoning, judgment, vocabulary, fund of information, and organizational ability were all above average for his age group.

4. Psychiatric interviews were conducted on:

A. Thursday November 8, 1962 2:00 P..

B. Friday, November 9, 1962 2:00 P. M.

C. Saturday, November 10, 1962 10:00 A. M.

D. Saturday, November 10, 1962 8:00 P. M.

(Jointly with Andrew Watson, M. D., University of Michigan School of Medicine and School of Law)

[fol. 2017] B5XF

(NU-INSERT WHERE THEY WILL FIT:)

—O—

OXFORD, Miss.—Night lead Walker () insert after graf

When the two-day hearing finally ended, Walker strode away unsmiling from the courthouse. A newsman who caught up with him asked Walker how he felt the hearing went.

"Fine," was Walker's only comment

—O—

Clyde Watts of Oklahoma City, Okla., one of Walker's four attorneys, said Judge Dxx Clayton's decision would be appealed—"If it is appealable." Watts said he felt that Walker's constitutional fxx rights had been violated by the October order to undergo mental examination

END INSERTS

LM612PCS B

XF

Pls give graf explaining habeas corpus in relation McShane case.

NU

Nov 21 RK622PCS BC

B1NU

HOOFBEATS SELECTIONS—FOR THE FAIR- GROUNDS...

- 1.. Second Light, Sir Hawley, Tulsa Bee
- 2.. Lil Ri,
- 2.. Lil Rix, Eight of Hearts, Coushatta Tribe.
- 3.. Giovanni, Pici-A-A Toria, Bill me.
- 4.. Fleefing Toni, Dixieland King, Royal Woo.
- 5.. Everett's Son, Be Bee Time, Midway MayorxxMayor.
- 6.. Air Stride, Missiixxx Mission Missions, Elfin.
- 7.. Se
- 7.. Steve Valenti, Shoot Luke, Magic Realm.

8.. Bull Story, Toxx Troa, Grand Wizard.

9.. Blonde Ruler, Clergyman, Picmar.

Best Bet—Air Stride (6).

RK624PCS NM

[fol. 2018]

PLAINTIFF'S EXHIBIT 16

A3;450) AMS BU

1/21/63

A32

(280)

ADVANCE HOLD FOR RELEASE EXPECTED MOMENTARILY

(Advance) Liverpool, England, Jan. 21 (AP)—Prime Minister Macmillan warned tonight that no free country can dominate "other equally free states. Nor can any country in these days stand entirely on its own. Alliances are essential to security."

The British leader spoke in reply to President De Gaulle's news conference statement a week ago that Britain is not ready to join Europe by becoming a member of the Common Market.

"Just as the French have themselves retained special links with their former overseas territories, so we in Britain believe that we too can be loyal Europeans without disloyalty to our great commonwealth tradition and duty," he said.

Then he reminded the French leader that the movement for European unity was founded "by the greatest English patriot of his or any other time, Sir Winston Churchill."

This movement, he said, is "based on partnership, not on domination."

When the last round of negotiations for Britain's entry into the European Common Market began in Brussels last week, the Prime Minister said, "it was recognized on all

sides that the few outstanding problems were capable of solution. This was the general view—and for good reasons.”

“We had made it abundantly clear that we accepted the Treaty of Rome and aligned ourselves with the political implications as well as the economic content of the treaty. In particular, we had accepted a common agricultural policy and the common tariff.

“We have reached agreed solutions on a very large part of the field. We still believe that given the will the remaining difficulties can be surmounted.”

The postponement at France's demand of the Brussels talks (until Jan. 28), he said, “has been a setback, I trust and pray not a fatal setback.”

MC321PES

A33AX (OLE MISS)

(270)

Oxford, Miss., Jan. 21 (AP)—A Federal Grand Jury investigating the University of Mississippi desegregation riots adjourned today, apparently without indicting former Maj. Gen. Edwin A. Walker.

Walker was one of 13 persons charged by the Justice Department in connection with rioting that swept the university following the arrival on campus last Sept. 30 of James H. Meredith, a Negro student.

Charges against three persons were dismissed before the Grand Jury went into session two weeks ago.

Last week, the 23-member Grand Jury returned two true bills indicting four persons for interfering with the Federal Marshals enforcing court orders for Meredith's admission.

Indicted were Melvin Bruce, 35, of Decatur, Ga., Philip Lloyd Miles and Kline Lamar May, both of Prichard, Ala., and Richard Hays Hinton of Lucedale, Miss.

TM(MORE)

NY/MC325PES

A34'

BULETIN

LIVERPOOL—RELEASE MACMILLAN A32.

THE AP JAN. 21

MC325PES

A35AX.

OXFORD—FIRST ADD GRAND JURY (A33) X X X
MISS.

The panel also returned two no true bills—which means the jury did not believe the complaint warranted an indictment.

The no true bills are never disclosed.

The charges against Walker remain pending even though the Grand Jury apparently either declined to consider the case or returned a no true bill.

He will remain under \$50,000 bond unless his attorneys succeed in having U. S. District Court set it aside.

Even if Walker obtains such an order, the government may try to obtain an indictment and prosecute him any time within the next five years, when the statute of limitations expires.

Walker, who was in Oxford the night of the rioting that left two dead and hundreds injured, was charged the following day with insurrection, seditious conspiracy, conspiracy to impede and injure officers of the United States, and assaulting, resisting and impeding officers.

Walker has denied the charges.

BE229PES NM

1424

[fol. 2019]

A57WX

CORRECTION

Washington—Night Lead Gantt (A55WX) 4th Graf
"South Carolina" Read X X X Never Admitted a Negro to
Its All-White Public Schools or Colleges.

The Appellate Court etc (Inserting "All-White" and
Changing "and" to "or").

The AP

JC532PES

A58WX -

ADVANCE FOR 6:30 P.M. EST TODAY

(220) FOOD FOR PEACE

BUST IT

BUST IT NY

A58WX (KATANGA)

M

A58WX

(200) KENNEDY—CONGO

Washington, Jan. 21 (AP)—President Kennedy personally hailed today the end of Katanga's secession, and said the people of the Congo "now have a unique opportunity to rally behind their national and provincial leadership" in a unity drive.

In a 400-word statement, Kennedy said the peaceful entry of United Nations forces into the Katangese stronghold of Kolwezi had confirmed the end of the secession movement led by Katanga's leader, Moise Tshombe.

The President said this development "is warmly welcomed by the United States and all who are concerned with the future of the Congo and the whole of Africa."

Throwing a bouquet at former President Dwight D. Eisenhower, Kennedy said "the previous administration determined wisely" that the U.S. objective of seeking conditions allowing the Congolese people to peacefully work out their own future could best be pursued through the United Nations.

Kennedy said his administration has vigorously supported the U.N. efforts and said the American people are deeply indebted to U.N. Secretary General U Thant and his predecessor, Dag Hammarskjold, "who gave his life in the quest for peace" in the Congo.

JC537PES

A59

PHNOM PEN

A-59'NU

BULLETIN

Oxford, Miss., Jan. 21 (AP)—The Justice Department today dismissed charges against former Maj. Gen. Edwin A. Walker and six other persons arrested in connection with desegregation riots at the University of Mississippi last fall.

RK440PCS

A60'NU

BULLETIN MATTER

Oxford, Miss.—First add Grand Jury (A59NU) X X X Last Fall.

U.S. Atty. H. M. Ray of Oxford asked for the dismissals several hours after a Federal Grand Jury adjourned without indicting the seven.

The Grand Jury earlier indicted four persons in connection with the rioting Sept. 30, which killed two persons and injured hundreds.

U.S. Dist. Judge Claude F. Clayton of Tupelo, Miss., granted the dismissal "without prejudice" under federal rules of criminal procedure.

The dismissal "without prejudice" means that the charges against Walker and the six others may be reinstated at any time before the statute of limitations expires in five years.

RK443PCS NM

A61

Phnom Penh, Cambodia, Jan. 21 (AP)—President Antonin Novotny of Czechoslovakia and Prince Norodom Sihanouk issued a communique today saying Cambodia will get further Czech technical and economic aid.

The communique was signed at the end of a four-day visit by the communist leader and Mrs. Novotny to this neutral southeast Asian nation.

The Cambodian kingdom looks to Czechoslovakia for mechanical

[fol. 2020]

A62

WITH PARIS ADENAUER—DE GAULLE A13
LUXEMBOU

BUST THIS

A62NU.

U R G E N T

Oxford, Miss.—Second Add Grand Jury (A60NU)
(Which Should Be Slugged First Lead) X X X Five Year.

Walker was charged with insurrectin, seditious conspiracy, conspiracy to impede and injure officers of the United States, and assaulting, resisting and impeding officers.

Walker denied the charges.

The other six were Frank Lamar Ott, 29, of Kentwood, La., Joseph Cutrer, 42, of Kentwood, Edward Louis Shade, 28, of Atlayum, Miss., Robert Blackard, 18, of Memphis,

William Gilbert Marr, 20, of Olive Branch, Miss., and Charles Clark, address unavailable.

RK444PCS NM

A63

Luxembourg, Jan. 21 (AP)—France boycotted a meeting of Common Market experts called today to prepare for negotiations with Britain Feb. 4-5 on a British application to join the European coal-steel pool.

The coal-steel pool, made up of the six Common Market members, has its headquarters in Luxembourg. Experts of the five other nations—West Germany, Italy, Belgium, the Netherlands and Luxembourg—got to work after expressing regret at the absence of their French colleagues.

The boycott was in keeping with President De Gaulle's opposition to British membership in the continental union.

ML449PES

A64

W

O

A64NU

U R G E N T

Oxford, Miss—Third Add First Lead Grand Jury (A62NU) X X X Address Unavailable.

On the campus, meanwhile, Negro James H. Meredith neared the end of his first semester at the university by skipping a final examination in algebra.

He gave no reason for cutting the examination. Instead of appearing for the test, he remained in his dormitory.

His last final exam of the fall semester is due tomorrow, a test in English literature.

The rioting broke out on the campus shortly after Meredith arrived late on the afternoon of Sept. 30. The university enrolled him the next day, the first of his race ever knowingly admitted by the school.

Since then, he has attended classes under a guard of military policemen and federal marshals.

Despite this, he's been the target of frequent harrassment—shouted threats, catcalls, and occasional flying bottle, and one seige of fireworks outside his dormitory.

He recently said he didn't plan to return to the university unless his situation became more conducive to study. He didn't detail the changes he wanted.

His plans remain a mystery. He told newsmen he would announce his decision at the end of the present semester, next Monday.

Walker was one of 13 persons charged by the Justice Department in connection with the rioting.

Charges against, 3rd Graf PRVS (A33AX).

RK454PCS NM

A65

WIREPHOTO ADVISORY:

Upcoming: Radiophoto, Chinese Delegate to East Berlin Communist Congress Sits at Desk as Other Communists Stand and Applaud Khrushchev, A24; Transmitted; Re-decorated Blue Room of the White House, A150; Paul J. Tierney, Appointed by President to the ICC, A142.

AP—Jan. 21

ML554PES

[fol. 2021]

A66

NIGHT LEAD EUROPEAN WEATHER (310)

BY RAYMOND E. PALMER

London, Jan. 21 (AP)—Tidal rivers iced over and some British sheep were reported frozen to death where they stood as Europe's little ice age entered its second month today.

The human death toll of the cold spell soared above 100.

Five deaths were reported today in Britain. The victims included two members of a climbing club who were buried by an avalanche in Yorkshire.

The white death count in Yugoslavia rose to 20 with the discovery of the body of a farmer frozen in a drift.

Snow fell for the third consecutive day in northern Greece. Icy winds built road-blocking drifts up to nine feet.

In Britain, high winds caused cancellation of helicopter food drops for herds on the moors, but royal marine trucks were attempting to carry in fodder.

Belgian hospitals arranged extra beds to cope with an influx of patients. At least a dozen Belgians have died from the effects of the cold.

As fuel supplies dwindled, Belgian authorities cancelled many passenger runs and switched locomotives to transporting coal.

Many villages in northern Holland were isolated by huge snowdrifts heaped up by weekend gales. Temperatures were around 17 degrees.

A freeze-up in the Baltic Sea brought traffic between West Germany and Scandinavia almost to standstill. The North Sea Island of Heligoland was surrounded by ice. West German army helicopters ferried essential supplies to some isolated islanders.

Police in Bavaria reported three more deaths during the weekend, which brought the Bavarian toll to at least 10.

Thirty icebreaker tugs toiled to keep open the Scheldt River mouth, main entry point into Belgium.

In Germany, special trains went into operation to deliver urgently needed heating oil from North German refineries to cities in the snowbound south.

Lake Zurich froze over for the first time in 34 years. In the Eastern Swiss Alps temperatures of two below zero were reported.

In Britain the river Thames froze from bank to bank at Kingston for the first time in 68 years.

1430

A67KX (PARAPLEGIC&KETCH)

M (AND INSERT)

E

A67NU

U R G E N T

SECOND LEAD GRAND JURY

Oxford, Miss., Jan. 21 (AP)—Charges were dismissed today against former Maj. Gen. Edwin A. Walker and six other persons avgksted in connection with desegregation riots at the University of Mississippi last fall.

U.S. Atty. H. M. Ray of Oxford asked for the dismissals seyerall hours after a Federal Grand Jury adjourned without indicting the seven.

U.S. District Judge Claude F. Clayton of Tupelo, Miss., granted the dismissal "without prejudice"—meaning that the charges could be reinstated at any time before the statute of limitation expires in five years.

Walker Was X X X 6th Graf First Lead (A59NU Et Seq).

RK506PCS NM

A68KX

(SEE WIREFOTO GO1)

San Diego, Calif., Jan. 21 (AP)—The boat which is bothering some of Frank Keillor's San Diego neighbors is going to be moved, Keillor said today.

It is a 55-foot ketch which he has all but finished in the yard of his home.

Keillor said he would complete it closer to the ocean and then take his family to Hawaii in it. He is a professional ship builder. The complaining neighbors said the boat was unsightly in a residential district and a nuisance.

B(A B507PCS

[fol. 2022]

A83AX (MEREDITH)

A83NU (MEREDITH)

NIGHT LEAD GRAND JURY—MEREDITH (580)

Oxford, Miss., Jan. 21 (AP)—The Federal Government withdrew today the charges against former Maj. Gen. Edwin A. Walker and six other persons arrested in connection with desegregation riots at the University of Mississippi last fall.

U.S. Attorney H. M. Ray went before U.S. District Judge Claude F. Clayton and asked for the dismissals several hours after a Federal Grand Jury adjourned without indicting the seven.

The judge granted the dismissals "without prejudice"—meaning the charges could be reinstated at any time before the statute of limitations expires in five years.

At Dallas, Walker said he would have no comment on the action until he receives formal notification.

The rioting erupted the night of Sept. 30 after Negro James H. Meredith appeared on the campus in the company of a heavy force of Federal Marshals.

The night of violence—gunshots, tear gas, flying bricks and bottles—killed two and injured hundreds.

In the last hours of the rioting, the university enrolled Meredith on the morning of Oct. 1—first of his race ever knowingly accepted as a student.

A84NU

Meredith, nearing the end of the semester, skipped a final examination in algebra this afternoon.

Staying in his dormitory, he refused to see newsmen and gave no reason for failing to appear for the examination.

He reportedly has been having difficulty with his grades in algebra. None of his grades has been made public.

Meredith's last final examination is tomorrow, a test in English literature.

His plans after the current semester remain in question—at least publicly.

The 29-year-old Negro, target of numerous taunts and threats despite a constant guard of military policemen and Federal Marshals, said earlier this month he would not return for the second semester unless his situation became more conducive to study.

He didn't, however, detail what changes he wanted.

He said he would announce his decision at the end of the present semester, next Monday.

In Washington, U.S. Atty. Gen. Robert F. Kennedy said in a copyrighted interview in U.S. News and World Report that "The chances at the present time" are that Meredith will pull out of the university.

Asked if he thought Meredith would stay, Kennedy said:

"I hope he does, but I have some serious questions as to whether he will or not. The changes at the present time are that he will leave."

Addressing a meeting of Washington area Episcopal Church ministers, Kennedy followed up his interview statements by saying Meredith's withdrawal "would be a backward step" for integration in the South. But he added, "It wouldn't be a total loss" because his enrollment demonstrated that federal law will be enforced.

The Grand Jury Panel of 23, all white, indicted four persons earlier in connection with the campus riot. They were Melvin Bruce, 35, of Decatur, Ga., Philip Lloyd Miles and Kline Lamar May, both of Prichard, Ala., and Richard Hays Hinton of Lucedale, Miss.

Along with Walker, charges against these six were dismissed today: Frank Lamar Ott, 29, and Joseph Cutrer, 42, both of Kentwood, La., Edward Louis Shade, 28, at Atlayum, Miss., Robert Blackard, 18, of Memphis, William Gilbert Marr, 20, of Olive Branch, Miss., and Charles Clark, Prentiss, Miss.

The federal government arrested Walker in Oxford the day after the riot on charges of insurrection, seditious conspiracy, conspiracy to impede and injure officers of the United States, and assaulting, resisting and impeding officers.

Walker denied the charges.

As an army officer, Walker directed federal forces in Little Rock during the desegregation crisis there in 1957.

He resigned from the army after a controversy over a troop indoctrination program in Europe.

RK628PGS - NM

A85

[fol. 2023]

A106NU

SUB

Oxford, Miss.—Night lead Grand Jury (A83NU) sub fourth graph "at Dallas, x x x formal notification."

At Dallas, Tex., Walker at first declined to comment on the dismissal until we received official notification but later said:

"I am glad to be vindicated by a Mississippi Grand Jury. Today my hopes return to those of Cubans and millions of others who want to return to their homes after having escaped from the jails and boundaries of a police state."

The rioting x x x fifth graf.

RK756PCS. NM

A107

AGENCIES OUT

(340)

New York, Jan. 21 (AP)—The plight of children forcibly taken from Siberian Evangelical Christians, who sought but were refused refuge in the U.S. Embassy in Moscow

last month, was revealed today in a Newsweek Magazine story.

Soviet authorities issued a report that the Christians were "religious fanatics" who cruelly mistreated their children, crippled 30 with beatings, confined them in cellars, and made some of them "mentally ill for life."

Newsweek said: "The Christians left 29 letters at the American Embassy. Many were from their children, who had been forcibly taken away from their parents and lodged in internats (Boarding schools) hundreds of miles away from their families.

"Typical of the letters," said Newsweek, "were letters from Valya Vashchenko, who wrote her father: 'Dear Papa, when I feel sad and bitter I write to you and sing Psalms. When we go to eat everybody stands around me and won't let me say Grace. I tell them I won't eat until I ask God's Blessing. If they don't let us emigrate, then let them kill us.'"

Valya wrote her mother: "Mamochka, the director shouts at us—and that is good. The deeper the grief, the closer we are to God . . . Pray that we should stand firm."

The magazine said when the school director tried to force Valya into taking the Communist Young Pioneer's oath, she asked her parents to petition Premier Khrushchev.

"Tell him," said Alya, "I don't want to live any more in the Soviet Union. I tell you I won't study in a Godless school."

Her sister, Tanya, and brother, Petya, also in the same school wrote letters, the magazine said.

Tanya, 8, wrote: "I cry at night. The boys here beat me. But don't worry . . . God still keeps us." Petya, 7, said: "Mama, the boys here beat me. But I bear everything. Mama, I beg them to let me go home, but they won't let me."

Newsweek said "The Evangelical controversy pinpoints a particularly sensitive area of Russia's Anti-Religious Policy: youth education often content to allow Churches

of various faiths to continue services for elder members, Soviet authorities seem determined to prevent religious education of the youth, hoping that the Church problem will simply age itself into the grave."

RA904PES

[fol. 2024]

PLAINTIFF'S EXHIBIT No. 16A

RACIAL

Oxford, Miss.—Federal Government drops charges against former Gen. Walker; Meredith takes last exam at Ole Miss with future still in doubt—roundup by Ben Thomas (should stand)

Columbia, S.C.—Supreme Court Justice Warren refuses to delay court order admitting Gantt, Negro student, to Clemson; school trustees to meet to consider action (fresh material, may stand; no fresh pictures available)

FRENCH-GERMANS

Paris—De Gaulle and Adenauer face broad-ranging discussions of European and Allied policy after agreeing on treaty of close cooperation; MacMillan warns De Gaulle against trying to dictate future of free Europe—roundup (lead and picture prospects uncertain; no pictures permitted at last night's dinner)

CONGO

Elisabethville—What makes 20th Century Mercenary tick? AP correspondent interviews one in Katanga (fresh, should stand; no pictures presently available)

Washington—Kennedy hails end of Katanga secession, declares Congolese now have opportunity to rally behind national and provincial leadership (A7, should stand)

STRIKES

New York—Newspaper Guild urges increased efforts to settle printers' strike (lead uncertain)

New York—Shipping industry meets today to act on dock strike settlement terms proposed by Presidential board (meeting at 2 P.M. EST)

Philadelphia—Negotiators in eight-day transit strike report no break in sight (may be topped around noon EST)

— — —

REPUBLICANS

Washington—GOP colleagues arranging dinner salute to Goldwater they hope will produce \$500,000 to help bail out financially strapped party—by Jack Bell (A6, fresh, should stand)

[fol. 2025]

A17

1/20/63

PMS BUDGET (300)

TOVARICH

BY JAMES E. WALTERS

Philadelphia, Jan. 22 (AP)—The modern theory of non-singing stars in musical comedy was tested anew last night as "Tovarich" had its premiere here.

Vivien Leigh, making her bow as a singer and dancer, was enchanting as the Russian Grand Duchess Tatiana who becomes a housemaid so she can have food and shelter in the Paris of 1927.

Her voice—probably more an alto than anything—met the demands of her role, but her acting carried it off.

For her leading man she had Jean Pierre Aumont, also unknown hitherto as a singer. His voice—a creditable baritone—was an unexpected bonus to his performance as her handsome husband, the Prince Consort Mikhail, who becomes a butler.

The musical is in two acts. There are several tuneful moments, and it is pleasant enough entertainment. The first act—running nearly an hour and a half—will need cutting before *Tovarich* finishes its three-week run here and goes on to Boston and then Broadway. The second is faster-paced.

The plot is almost identical with of the popular Broadway play of the same name in 1936-37 and a later movie starring Claudette Colbert and Charles Boyer.

Miss Leigh retains the beauty and charm she displayed as Scarlett O'Hara in the 1939 movie, "Gone With the Wind." Her dancing of the Charleston, in "Wilkes-Barre, Pa." is a show-stopper.

She does a pleasing job on her two solos—"The Only One" and "I Know That Feeling"—and duets with Aumont, "Her Highness and Her Husband" and the lilting, "All of You."

The supporting cast is first-rate: Bryon Mitchell as the youthful son and Margery Gray as the daughter of the American couple who employ the Prince and Grand Duchess; Taina Elg as a sexy Russian refugee, and George S. Irving and Louise Kirtland as the mother and father. Mitchell and Miss Gray seem to have a real hit in "Uh-Oh."

Music is by Lee Poekriss and lyrics by Anne Crosswell.

BN356AES

A18AX (BJT)

PMS BUDGET (460)

WALKER-MEREDITH RDP

BY BEN THOMAS

Oxford, Miss., Jan. 22 (AP)—The Federal Government has dropped charges against former Army Maj. Gen. Edwin A. Walker and six others arrested after the University of Mississippi desegregation riots last Fall.

U. S. Atty. H. M. Ray asked for the dismissal yesterday several hours after a Federal Grand Jury quit without indicting Walker.

Meanwhile, James H. Meredith—the Negro whose arrival at the University Sept. 30 ignited the riot—takes his final semester test today.

A question mark hangs over the future of the 29-year-old former Air Force Sergeant. He has threatened to withdraw from the University after this semester unless campus conditions change. He has been the target of frequent harassment.

The charges against Walker were dismissed by U. S. Dist. Judge Claude F. Clayton "without prejudice." This means the Federal Government may reconsider them before the statute of limitations expires in five years.

The white grand jury panel indicted four persons last week in connection with the riots which killed two and injured scores.

They were Melvin Bruce of Decatur, Ga., Philip Lloyd Miles and Kline Lamar May, both of Prichard, Ala., and Richard Hays Hinton of Lucedale, Miss.

They were charged with interfering with Federal Marshals in the performance of duties and impeding them in the execution of court orders directing Meredith's enrollment.

Besides Walker, charges were dropped against Frank Lamar Ott and Joseph Cutrer, both of Kentwood, La., Edward Louis Shade of Atlayum, Miss., Robert Blackard of Memphis, Tenn., William Gilbert Marr of Olive Branch, Miss., and Charles Clark, Prentiss, Miss.

Walker, who commanded Federal troops at Little Rock during the 1957 desegregation crisis, was arrested in Oxford the day after the riot.

He was charged with insurrection, seditious conspiracy, conspiracy to impede and injure officers of the United States and assaulting, resisting and impeding officers. He denied the charges.

The 53-year-old Texan, who resigned his commission in a dispute over troop indoctrination policies, said at Dallas, Tex., he was glad to be vindicated.

"My hopes return to those of Cubans and missions of others who want to return to their home after having escaped from the jails and boundaries of a police state," Walker said.

[fol. 2026] A19AX

Although U. S. Atty. Gen. Robert F. Kennedy—in a copy-right interview with U. S. News and World Report—said the chances were that Meredith would quit school, there is strong sentiment now on campus that the Negro will be back next semester.

He skipped an examination yesterday in Algebra—a course with which he reportedly has been having difficulty. He declined to comment on reasons for missing the test.

Meredith said he would leave Jackson to see his wife and son "as soon as possible" after completing today's test in English Literature. He has promised to reveal his future plans sometime after the official end of this semester next Monday.

XW408AES

A20

PMS BUDGET

ADENAUER-DE GAULLE (400)

BY JOSEPH E. DYNAN

Paris, Jan. 22 (AP)—West German Chancellor Konrad Adenauer and French President Charles De Gaulle faced Atlantic and European issues dividing them today after agreeing on a treaty of close diplomatic cooperation between their countries—traditional enemies.

Adenauer is under heavy pressure from his public to play a mediating role in the crisis which erupted last week when

De Gaulle rejected the American Plan for a NATO nuclear force and slammed the door on British membership in the European Common Market.

West Germany favors British membership in the Common Market and has endorsed the American project for a multinational nuclear NATO force. Adenauer was expected to press De Gaulle to modify his position at a meeting today with only interpreters present.

British bitterness over De Gaulle's position welled up last night in a sharp speech by Prime Minister MacMillan, warning the French President against trying to dictate the future of free Europe. MacMillan told a political rally in Liverpool that no country "in these days can stand entirely on its own. Alliances are essential to security."

A21

MacMillan accused De Gaulle of opposing Britain's bid to enter the Common Market for political reasons. He rejected French claims that he had been insincere with De Gaulle in agreeing to President Kennedy's proposals to scrap the Skybolt missile in favor of Polaris missiles that would be controlled by the North Atlantic Alliance.

The British leader also reminded De Gaulle that the movement for European unity was founded "by the greatest English patriot of this or any other time, Sir Winston Churchill."

De Gaulle and Adenauer agreed yesterday on a treaty of close cooperation in diplomacy, defense and culture, open to other states of Europe, which they hope will repair their differences in foreign policy.

West Germany backed away from an exclusive inner alliance with France inside the European and Atlantic communities. This apparently doomed the French concept of a continental "third force" dominated by France and West Germany.

The treaty provides for regular meetings between the chiefs of state or governments, and between their foreign, defense, education and youth ministers to coordinate action in them.

education and youth ministers to coordinate action in these fields. The heads of state or government will meet at least twice a year, and the ministers on a quarterly basis.

The treaty also calls for more student exchanges, joint studies on military strategy, joint military maneuvers and officer exchanges.

Spokesmen specified that the treaty would be subject to Parliamentary ratification in West Germany—if not in France as well. This was considered important since an overwhelming majority of the West German Bundestag favors British entry into the European Economic Community and endorses participation in the NATO nuclear force.

The talks between De Gaulle and Adenauer are to end tomorrow.

BJ417AES

A22

Taipei, Formosa, Jan. 22 (AP)—A Chinese Communist gunboat was hit and "disappeared from sight" in an encounter with three Nationalist Chinese Warships Sunday near the Nationalist-held Matsu Island, the Defense Ministry said today.

BJ418AES

[fol. 2027]

PLAINTIFF'S EXHIBIT No. 21

I'm sad for
you go
make your
spiel some
where else

CK NW

You are doing
allright
Riot Riot.
You are getting
news all
over the
country
You got
casualties

I want to
compliment
you all
on your
protest

and the
agencies
thereof
I have
just
been
informed

at order
of certain
official
Birdsong

[fol. 2028]

This is
a long
route to
Cuba

escorted
off
You can
continue
protesting
as you
are

You have
a right
Did not
come to
see violence

by reps
of Governor
that this
fact that
these
people
are on
campus

I am
only
telling
you what
has been
reported
by official
rep of gov.

Sorry
an Epi
copal
church

There is
no stopping
point.
Many
heading
toward
Oxford

Any blood
you see
tonight
is on hands
of fed
govt

due to
sell out
def. orders
that marsh
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on campus

Do not
expect
violence
and
protest
until
Meredith
not
admitted

Duncan
Gray
says
stop it
you
can

1963 Beginning On Priest Dam Assur

By FRANK VAN DER LINDEN
Chief of the Bureau's
Washington Bureau

Washington — The Senate today assured that construction of the J. Percy Priest Dam on Stone River can begin sometime in 1963.

Senate approval of the \$3 billion public work-bill marked final approval of \$1 million to commence construction of the \$32 million project in Nashville.

The Senate approved the bill in a vote of 78-19. The bill provides for the construction of the J. Percy Priest Dam on Stone River, which will provide flood control and generate electricity. The dam is located about 10 miles from Nashville.

The bill also provides for the construction of a new bridge over the river, and for the improvement of the river's navigation. The project is expected to be completed by 1965.

Ellington

(From Page One)

The Senate will cover \$120 million in the bill, which will be passed by the House in the next few days. The bill is expected to be signed by the President in the next few weeks.

Barnett

(From Page One)

Barnett issued his statement last week, in which he said that he was not a member of the Citizens' Council. He also said that he was not a member of the Ku Klux Klan.

Barnett's statement was a response to a charge that he was a member of the Citizens' Council. The charge was made by a member of the House of Representatives.

Barnett's statement was a clear denial of the charge. He said that he was not a member of the Citizens' Council, and that he was not a member of the Ku Klux Klan.

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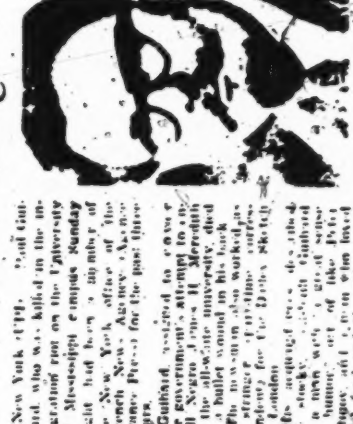
Meredith Attends Classes At Ole Miss



Federal marshals wearing gas masks stand guard at students' demonstration on the campus of Ole Miss at Oxford in protest of court-ordered enrollment of James Meredith, Negro Air Force veteran.

Oxford Victim 'Loved

Life's Good Things'



PAUL GUINARD

He was discharged in 1945, after six years in the Army. He was then in New York, where he was working as a janitor. He was then in New York, where he was working as a janitor.

Son Of Knoxville

Newman Held

Oxford, Miss. (UPI) Joseph J. Levitt Jr., son of the city's mayor, was arrested today on charges of participating in the Meredith march. He was held in the Oxford jail.

Walker

Walker, the mayor of Oxford, Miss., was arrested today on charges of participating in the Meredith march. He was held in the Oxford jail.

handed him a stark of force. The historic occasion was the first time that a group of youth had been arrested in the city. The group was led by James Meredith, a civil rights leader.

The group was led by James Meredith, a civil rights leader. They were marching from Memphis to Jackson, Miss., to demand the desegregation of the city.

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Paradoxes In Integration Crisis

Oxford, Miss. (UPI) Paradoxes in the Mississippi integration crisis are being pointed out by a group of students at the University of Mississippi. They are pointing out the contradictions between the state's laws and the federal government's policies.

Student Rioting Brings 'Dishonor'

Says Campus Editor

The 100 years ago over almost the entire campus, the students are protesting against the state's policies. They are protesting against the state's policies.

Mississippi Case

'Disgraceful'

Sen. Kefauver

Beverly Hills, Calif. (UPI) Sen. Frank B. Rowland today called the state's policies "disgraceful." He said that the state's policies were a disgrace to the nation.

Beverly Hills, Calif. (UPI) Sen. Frank B. Rowland today called the state's policies "disgraceful." He said that the state's policies were a disgrace to the nation.

63 Beginning On Priest Dam Assured

FRANK VAN DER LINDEN

Chief of the Senate's

Washington Bureau

The Senate today assured that

the J. Percy Priest Dam on Stones

will be approved sometime in 1963.

Approval of the \$3 billion public work-

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Meredith Attends Classes At Ole Miss



Federal marshals wearing gas masks stand guard as students demonstrate on the campus of Ole Miss at Oxford in protest of court ordered enrollment of James Meredith, Negro Air Force veteran.

Oxford Victim 'Loved

Life's Good Things'

New York (UPI) —

that who was killed in the in-

teraction on the University

of Mississippi campus Sunday

night had been a member of

the New York office of the

French Press for the past three

years.

Guillard, assigned to cover

the government's attempt to en-

force James H. Meredith's en-

rollment at the University of

Mississippi, was shot and killed

by a bullet fired from the back

of a crowd of demonstrators.

The shooting also worked as

a dramatic "life-time" en-

act for the French Press, which

had been in the city since the

beginning of the year.

Guillard, who was 40, was

married and had two children.

He was a member of the

French Press for the past three

years.

Guillard, assigned to cover

the government's attempt to en-

force James H. Meredith's en-

rollment at the University of

Mississippi, was shot and killed

by a bullet fired from the back

of a crowd of demonstrators.

Paradoxes In Integration Crisis

Oxford, Miss. (UPI) —

Paradoxes in the Mississippi integra-

tion crisis.

James H. Meredith, Jr., son of

Mississippi's anti-integration

leader, was found in the case of

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James H. Meredith, Jr., son of

Mississippi's anti-integration

Student Rioting Brings 'Dishonor' Says Campus Editor

Oxford, Miss. (UPI) —

The two years ago over almost

the University of Mississippi

issue and the United States

flag, the student body has

been brought to a standstill

by the rioting, "dishonor" and

shaming the laws of our

country.

"No matter what your con-

ditions you should follow the

laws of the United States and

the laws of the University of

Mississippi," said the editor of

the campus newspaper, "The

Mississippi Daily Free Press."

The editor said that the

campus was in a state of

disorder and that the

Mississippi Cause 'Disgraceful'

Sen. Kefauver

Beverly Hills, Calif. (UPI) —

Sen. Kefauver today

called the Mississippi

cause "disgraceful" and

called for a federal

intervention to stop the

violence in the state.

Kefauver said that the

Son Of Knoxville Newsmen Held

Oxford, Miss. (UPI) —

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Patterson

Oxford, Miss. (UPI) —

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Walker

Oxford, Miss. (UPI) —

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MEREDITH ATTENDS CLASS AS GIs BATTLE RIOTERS



A long line of jeep borne Army troops leaves the main gate of the University of Mississippi at Oxford after parading the riot torn campus.

Walker Arrested In Oxford

abduction - Former Army Gen. Edwin Walker was arrested today on charges of "conspiracy" and "sedition" in connection with the rioting at the University of Mississippi at Oxford, Miss. Walker, 47, was arrested by a group of soldiers from the 4888 Central Postal Directory, who were on duty at the university. Walker was taken to the Oxford police station, where he was held overnight. He was then transported to the Memphis Federal Penitentiary, where he is being held on a \$10,000 bond. Walker is charged with conspiring with a group of white supremacists to overthrow the government and to establish a white supremacist regime in the South. He is also charged with sedition for his alleged actions in connection with the rioting at the university.

Ellington Aim: Avoid Issue At Conference

By HEIL CUNNINGHAM
Senior Staff Writer
Ellington today implied he will resist any effort to involve the Southern States' Conference in the integration struggle. He said the conference should be a forum for constructive discussion of the problems of the South, but should not become a platform for the airing of grievances or for the making of demands. Ellington said he was confident that the conference would be a success and that it would lead to a better understanding of the problems of the South and to a more effective solution of these problems.

Court Opens Mixing Bar Hearings

By LARRY BRINTON and BRAD CARLISLE
First of 16 proceedings to determine whether or not certain persons are eligible to hold office in the state of Tennessee began today in the state court. The proceedings are being held in connection with the recent election of certain persons to the state legislature, in which certain persons who were previously ineligible to hold office were elected. The court is now hearing arguments from the parties to the proceedings, and will render its decision on each case at a later date.

Barnett Plans To Send Lawyers To U.S. Court

Jackson, Miss. (AP)—Gov. Ross Barnett, a Negro, in the United States Supreme Court today to challenge the constitutionality of the federal anti-lynching law. Barnett said he was confident that the Supreme Court would rule in his favor and that he would then be able to remove the anti-lynching law from the books. Barnett said he was also planning to send a group of lawyers to the U.S. Supreme Court to challenge the constitutionality of the federal anti-lynching law. He said he was confident that the Supreme Court would rule in his favor and that he would then be able to remove the anti-lynching law from the books.

By Reason—Not Temper—Mississippi Tragedy Have Been Averted

(An Editorial)
BLIND, BLUNDERING, BLUDGEONING... the tragedy of which "side" it is in—can be traced to the fact that the state of Mississippi has been governed by a small group of men who have been blind to the needs of the people and who have been blundering in their attempts to govern. They have been bludgeoning the people with their policies and their actions, and the result has been a tragedy that could have been averted if only they had been able to see the needs of the people and to act in a responsible manner.

Forefront should have noted that as clear as the federal authorities, on whom a joint responsibility is placed, each of which, again, has contributed to the tragedy, the state of Mississippi has been a failure. It has been a failure because it has been governed by a small group of men who have been blind to the needs of the people and who have been blundering in their attempts to govern. They have been bludgeoning the people with their policies and their actions, and the result has been a tragedy that could have been averted if only they had been able to see the needs of the people and to act in a responsible manner.

MISSISSIPPI COULD HAVE received this message from the federal authorities, and other states—including Tennessee—on the basis of the federal determination, and they could have acted accordingly. They could have acted accordingly by taking steps to ensure that the needs of the people were met and that the state was governed in a responsible manner. They could have acted accordingly by taking steps to ensure that the needs of the people were met and that the state was governed in a responsible manner.

PRESIDENT KENNEDY last night spoke of such marking the vast constituency of the South. He said that he believed that the South was a land of opportunity and that it was a land of hope. He said that he believed that the South was a land of opportunity and that it was a land of hope. He said that he believed that the South was a land of opportunity and that it was a land of hope.

LATE AS IT IS, all parties concerned must be given a chance to be heard. It is America's prayer that the state of Mississippi will be able to overcome its problems and that it will be able to provide a better future for its people. It is America's prayer that the state of Mississippi will be able to overcome its problems and that it will be able to provide a better future for its people. It is America's prayer that the state of Mississippi will be able to overcome its problems and that it will be able to provide a better future for its people.

'Round The Clock WITH

ROBERTS KERR
Fidelity Mail
State Fair tickets in Memphis, Tenn. (11) \$1.00, (12) \$1.25, (13) \$1.50, (14) \$1.75, (15) \$2.00, (16) \$2.25, (17) \$2.50, (18) \$2.75, (19) \$3.00, (20) \$3.25, (21) \$3.50, (22) \$3.75, (23) \$4.00, (24) \$4.25, (25) \$4.50, (26) \$4.75, (27) \$5.00, (28) \$5.25, (29) \$5.50, (30) \$5.75, (31) \$6.00, (32) \$6.25, (33) \$6.50, (34) \$6.75, (35) \$7.00, (36) \$7.25, (37) \$7.50, (38) \$7.75, (39) \$8.00, (40) \$8.25, (41) \$8.50, (42) \$8.75, (43) \$9.00, (44) \$9.25, (45) \$9.50, (46) \$9.75, (47) \$10.00, (48) \$10.25, (49) \$10.50, (50) \$10.75, (51) \$11.00, (52) \$11.25, (53) \$11.50, (54) \$11.75, (55) \$12.00, (56) \$12.25, (57) \$12.50, (58) \$12.75, (59) \$13.00, (60) \$13.25, (61) \$13.50, (62) \$13.75, (63) \$14.00, (64) \$14.25, (65) \$14.50, (66) \$14.75, (67) \$15.00, (68) \$15.25, (69) \$15.50, (70) \$15.75, (71) \$16.00, (72) \$16.25, (73) \$16.50, (74) \$16.75, (75) \$17.00, (76) \$17.25, (77) \$17.50, (78) \$17.75, (79) \$18.00, (80) \$18.25, (81) \$18.50, (82) \$18.75, (83) \$19.00, (84) \$19.25, 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The convair will carry 120 men and will extend 12 miles up the river.

Also in the final Battle Hill is 231 million in continued building.

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Barnett

(From Page One)

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Oxford Victim 'Loved'

Life's Good Things

New York (AP) - A student in the University of Mississippi campus Sunday...



PAUL GUINARD

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...the river...

Son Of Knoxville

Newsman Held

Oxford, Miss. (UPI) Joseph...

Patterson

(From Page One)

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County Post

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List Of Units In Oxford

Or En Route To Scene

Washington (UPI)—Following is a Defense Department list of units en route to the scene of the riot at Oxford, Miss., or en route there:

The 7th Cavalry Regiment, Ft. Bragg, N. C.

The 10th Cavalry Regiment, Ft. Benning, Ga.

The 1st and 2nd Battle Groups of the 23rd Infantry.

The 7th Military Police from Ft. Mon, Tex.

Paradoxes In Integration Crisis

Think Miss. (UPI) - Paradoxes in the Mississippi integration crisis...

Student Rioting Brings 'Dishonor'

Says Campus Editor

Oxford, Miss. (UPI) - The up-voicing over student rioting...

Mississippi Cause 'Disgraceful'

Sen. Kefauver

Beverly Hills, Calif. (AP) - U.S. Sen. Estes Kefauver...



James Meredith is escorted onto the University of Mississippi campus at Oxford for court-ordered enrollment.



Federal marshals wearing gas masks stand guard as students demonstrate on the campus of Ole Miss at Oxford in protest of court-ordered enrollment of James Meredith, Negro Air Force veteran.

Washington announced about 100 federal troops...

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Knoxville



Banner

Wednesday

LONG MAY OUR LAND BE BRIGHT WITH FREEDOM'S HOLY LIGHT; PROTECT US BY THY MIGHT, GREAT GOD, OUR KING

Founded, April 10, 1876

149

NASHVILLE, TENN., MONDAY AFTERNOON, OCT. 1, 1945

34 PAGES

PRICE: TEN CENTS

EREDITH ATTENDS CLASSES S GIs BATTLE RIOTERS



Oxford, Miss. (UPI)—Negro James Meredith registered today at the University of Mississippi and began attending classes on a campus littered with the debris of a major riot that took two lives and injured at least 75 persons.

"It is not a happy occasion," he said. "I am a deputy marshal and I think federal troops guarded the campus as the 29-year-old Negro cracked the segregation barriers of the 114-year-old school.

Jepp horse Army troops leaves the main gate of the University of Mississippi at Oxford after juggling the riot torn campus.

Walker Arrested In Oxford

At least 30 rioters were rounded up by Army troops at the University of Mississippi today. They were arrested after they had been ordered to leave the campus. The rioters were seen in the streets of Oxford, Miss., after the riot. They were seen in the streets of Oxford, Miss., after the riot. They were seen in the streets of Oxford, Miss., after the riot.

Ellington Aim: Avoid Issue At Conference

By NEIL CUNNINGHAM
Senior Staff Writer
Hollywood, Fla.—Gov. Ellington today implied he will resist any effort to moving the Southern Governors' Conference to the integration of the South. He said the conference would not discuss the integration of the South.

Barnett Plans To Send Lawyers To U.S. Court

Jackson, Miss. (AP)—Gov. Ross Barnett, a Negro in the U.S. court, planned to send his attorney to the U.S. court. Barnett planned to send his attorney to the U.S. court. Barnett planned to send his attorney to the U.S. court.

By Reason—Not Temper—Mississippi Tragedy Could Have Been Averted

BLIND, BLUNDERING, BLUDGEONING reality—irrespective of which "side" it is—can only compound the tragedy of Mississippi; antagonizing further the provocation that could and should have been settled without recourse to either military invasion or inextinguishable violence.

MISSISSIPPI COULD HAVE received this lesson, as have other states—including Tennessee—no less mindful of states' rights in policy determination, and opposing civil rights integration, but aware of the legal phobias erected when turned back by every level of the federal judiciary. They bowed to the necessity for observance of the law, however much it incurred individual or mass resentment.

PRESIDENT KENNEDY last night spoke to the point of peaceful solution via reason on both sides. His firm mind and heart of a thinking people; and was respectful of such meeting the vast constituency of Mississippi. The Banner does not believe that it was either necessary or advantageous to send troops, as such, as they were almost immediately dispatched. The National Guard of Mississippi had been federalized, and was on the scene, along with hundreds of U.S. marshals—a force adequate to any task of law enforcement, or the purpose to which they were assigned.

LATE AS IT IS, all parties concerned must come to their senses—for the settlement, by law, that should have occurred days ago. It is America's prayer, surely, that it will end here—by responsible interest in the reality, albeit of which is decency's paramount interest in orderly government under law.

It is about time, by the way, for the "repeal" of the Federal Flag—no longer a symbol to cause killing incidents for rabble-rousing appeals to rioters, old or young. The stars of such is on it as less than an Old Glory.

'Round The Clock WITH O'DONNELL

MONDAY'S MESSAGE
Fletcher Keri gave some more tips to Jean (17), Billy (16) and Mary (15) in the 1000 Club. Jean's letter of thanks read: "I enjoyed the 'Pair' Thank You. P.S.—Buddy & Billy played it well. Love, Jean."

Knoxville



Banner

Wednesday

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"It is not a happy occasion," he said. "I am a deputy marshal and I think federal troops guarded the campus as the 29-year-old Negro cracked the segregation barriers of the 111-year-old school."

The campus was brought under military control early in the morning after a riot broke out downtown Oxford and at least one soldier was hurt in a battle of rocks, timber and gas. Meredith said the riot was provoked with gas and tear gas. He said he was brought in by the military and that he was the only one of his race to be brought in. He said he was the only one of his race to be brought in.

Jepp horse Army troops leaves the main gate of the University of Mississippi at Oxford after juggling the riot torn campus.

Walker Arrested In Oxford

Jefferson Army troops left the main gate of the University of Mississippi at Oxford after juggling the riot torn campus. Walker was arrested at the University of Mississippi at Oxford after juggling the riot torn campus.

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Barnett Plans To Send Lawyers To U.S. Court

Jackson, Miss. (AP)—Gov. Ross Barnett, a Negro in the U.S. court, planned to send his attorney to the U.S. court to challenge the U.S. court's decision to allow the U.S. court to hear the case.

By Reason—Not Temper— Mississippi Tragedy Could Have Been Averted

(An Editorial)

BLIND, BLUNDERING, BLUDGEONING reality—irrespective of which "side" it is—can only compound the tragedy of Mississippi; antagonizing further the provocation that could and should have been settled without recourse to either military invasion or inextinguishable violence.

Forethought should have been that as clearly as hindsight now discloses it, lack of restraining effect on both state and federal authorities, on whom a joint responsibility has rested—and each of which, again, has contributed to the seemingly spectacle of breakdown in law and order.

Let it be said and said more that this nation cannot tolerate chaos and anarchy, from any cause. Regardless of personal feeling, or considerations of political advantage on either side, this case should have been settled for short of the present clamorous showdown; and would have been had calm judgment prevailed to reason its way to a solution. Instead, free rein was given to tempers.

MISSISSIPPI COULD HAVE received this lesson, as have other states—including Tennessee—no less mindful of states' rights in policy determination, and opposing compulsory integration, but aware of the legal phobias erected which turned back by every level of the federal judiciary. They bowed to the necessity for observance of the law, however much it incurred individual or mass resentment.

Throughout this ordeal, state by state and section-wide, there has been the inclination to hysteria, much of it cultivated by aggravating processes of various pressure groups. And the outrageous, fact-based to which these elements are indifferent—that the Negro as an individual or citizen group has been the pawn in all of this political brawling on the part of Democrats and Republicans alike—regarded by the parties in power.

The present is no exception. PRESIDENT KENNEDY last night spoke to the point of peaceful solution via reason on both sides. His firm mind and heart of a thinking people; and was respectful of such meeting the vast constituency of Mississippi.

The Banner does not believe that it was either necessary or advantageous to send troops, as such, as they were almost immediately dispatched. The National Guard of Mississippi had been federalized, and was on the scene, along with hundreds of U.S. marshals—a force adequate to any task of law enforcement, or the purpose to which they were assigned.

As it did in the case of Little Rock, when it was President Eisenhower dispatching the 101st Airborne Division, on this newspaper condemns no less the military invasion, on Mr. Kennedy's order, of a sovereign state.

Two factors there were present almost automatically calculated to teach off the student rigging that occurred: (1) the sight of federal forces, deemed a trespass; and (2) the presence of former Maj. Gen. Edwin Walker, whooping it up for a demonstration of resistance. The latter was no item out of place thus the former, and a contributory circumstance to the turmoil erupting into tragedy.

LATE AS IT IS, all parties concerned must come to their senses—for the settlement, by law, that should have occurred days ago. It is America's prayer, surely, that it will end here—by responsible interest in the realities, albeit of which is decency's paramount interest in orderly government under law.

It is about time, by the way, for the "repeal" of the Federal Flag—no longer a symbol to cause killing incidents for rabble-rousing appeals to rioters, old or young. The stars of such is on it as less than an Old Glory.

'Round The Clock WITH JIM O'CONNELL

MONDAY'S MESSAGE

Proctor Keri gave some more tips to Jean (17), Billy (16) and Mary (15) on the 100th anniversary of the Civil War. Jean's letter of thanks read: "I enjoyed the 'Pair' Thank You. P.S.—Buddy and Billy played it well."



A long line of jeep borne Army troops leaves the main gate of the University of Mississippi at Oxford after parading the riot torn campus.

Walker Arrested In Oxford

By NEIL CUNNINGHAM, Banner Staff Writer
Hollywood, Fla.—Gov. Earl Warren today issued a warrant for the arrest of Edwin Walker, a segregationist leader, on charges of sedition and conspiracy. Walker, who was arrested in Oxford, Miss., last night, is being held in a federal prison in New Orleans.

The warrant, issued by the U.S. District Court in New Orleans, charges Walker with sedition and conspiracy to obstruct the administration of justice. It also charges him with obstructing the federal government in its efforts to enforce the civil rights laws.

Walker, 45, is a former member of the U.S. House of Representatives and a prominent leader of the Citizens' Council, a segregationist organization. He was arrested last night after a riot at the University of Mississippi in Oxford, Miss., in which several people were killed and many injured.

The riot at the university was the result of a confrontation between students and federal troops. The students were protesting against the admission of a black student, James H. Ray, to the university. The federal troops were sent to Oxford to enforce the law and to protect the students.

Walker was seen at the riot, and he was accused of inciting the students to violence. He was arrested by federal agents and taken to New Orleans, where he is being held in a federal prison.

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Court Opens Mixing Bar Hearings

By LARRY BRINTON and BRAD CARLILE
First of 16 petitions in the case of the Little Rock Nine, which were filed with the U.S. District Court in Little Rock, Ark., today. The petitions were filed by the parents of the nine black students who were denied admission to Little Rock Central High School in 1957.

Barnett Plans To Send Lawyers To U.S. Court Patterson, Faubus Place Bloodshed Blame On U.S.

Jackson, Miss.—Gov. Ross Barnett today announced that he would send a delegation of lawyers to the U.S. District Court in Little Rock, Ark., to challenge the federal court's decision in the case of the Little Rock Nine. Barnett also announced that he would send a delegation of lawyers to the U.S. District Court in Little Rock, Ark., to challenge the federal court's decision in the case of the Little Rock Nine.

Why Not Face Truth On Cuba? Why not face the truth about Soviet-dominated Cuba and its dire implications for the United States? That's what Clare Boothe Luce does in her penetrating articles, the first of which appears today on Page 4.

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Mississippi Tragedy Have Been Averted

By Reason—Not Temper—(An Editorial)

BLIND, BLUNDERING, BLUDGEONING and the tragedy of which "side" it is on—can only be averted by reason. Mississippi, antagonized further by the fact that it could and should have been settled peacefully, is now a scene of military invasion or insurrection.

MISSISSIPPI COULD HAVE received this time other states—including Tennessee—on appeal. The federal government, by its own actions, has turned back by every level of the federal government. They bowed to the necessity for observance of the law. They bowed to the necessity for observance of the law. They bowed to the necessity for observance of the law.

PRESIDENT KENNEDY last night spoke to the people of the United States. He spoke of the tragedy in Mississippi. He spoke of the tragedy in Mississippi. He spoke of the tragedy in Mississippi. He spoke of the tragedy in Mississippi. He spoke of the tragedy in Mississippi.

LATE AS IT IS, all parties concerned must come to a decision. The decision must be made. The decision must be made. The decision must be made. The decision must be made. The decision must be made.

His 'Duty To Call On Troops,' Says Kennedy

Washington, D.C.—President John F. Kennedy today declared that it was his duty to call on the troops in Mississippi. He declared that it was his duty to call on the troops in Mississippi. He declared that it was his duty to call on the troops in Mississippi.

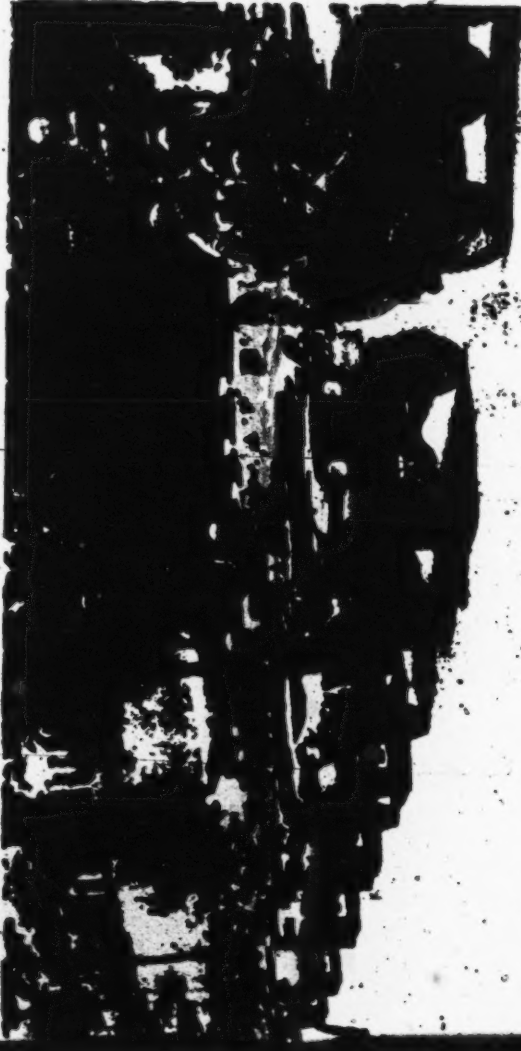
After his address, Kennedy met with the press. He met with the press. He met with the press. He met with the press. He met with the press. He met with the press. He met with the press. He met with the press. He met with the press. He met with the press.

'Round The Clock With O'Donnell

Monday's Message
Fidelity's Keel gave me a message from Billy Martin. Billy Martin gave me a message from Billy Martin. Billy Martin gave me a message from Billy Martin. Billy Martin gave me a message from Billy Martin.

Market Trends
New York 100... The stock market took another active trading day in moderately active trading. The market took another active trading day in moderately active trading. The market took another active trading day in moderately active trading.

Weather Report
Nashville Forecast
Cloudy and mild with periods of rain. High tonight about 60. Low tonight about 40. High tomorrow about 60. Low tomorrow about 40. High tomorrow about 60. Low tomorrow about 40.



Jepp burner Army troops leaves the main gate of the University of Mississippi at Oxford after juggling the riot torn campus.

Walker Arrested In Oxford

At the University of Mississippi, Walker was arrested after a series of violent acts. The arrest was made by a group of soldiers and police officers. Walker was taken to a nearby station and held there. The incident caused a great deal of excitement and confusion among the students and faculty.

Ellington Aim: Avoid Issue At Conference

By NEIL CUNNINGHAM
Senior Staff Writer
Hollywood, Fla.—Gov. Ellington today issued a statement in which he said he would not discuss the issue of integration at the Southern Governors' Conference. He said that the issue was too controversial and that he did not want to cause any further division among the governors.

Barnett Plans To Send Lawyers To U.S. Court

Jackson, Miss.—Gov. Barnett today announced that he would send a team of lawyers to the U.S. Supreme Court to argue the case of the University of Mississippi. He said that the case was of great importance and that he wanted the best possible representation.

Patterson, Faubus Place Bloodshed Blame On U.S.

St. Louis, Mo.—Gov. Patterson today accused the federal government of being responsible for the violence in Mississippi. He said that the federal government had sent in troops and that they had caused the trouble. He also accused the U.S. Army of being involved in the violence.

Why Not Face Truth On Cuba?

Why not face the truth about Soviet-dominated Cuba and its dire implications for the United States? That's what Clare Boothe Luce does in her penetrating article, the first of which appears today in Page 4.

Page 4

By Reason—Not Tempters—Mississippi Tragedy Could Have Been Averted

(An Editorial)

BLIND, BLUNDERING, BLUDGEONING military—irrespective of which "side" it is on—can only compound the tragedy of Mississippi: antagonizing further the controversy that could and should have been settled without recourse to either military invasion or instructive violence.

Threat should have been met as clearly as hindsight federal authorities, on whom a joint responsibility has rested—and each of which, again, has contributed to "the unseemly spectacle of breakdown in law and order."

Let it be said once more that this nation cannot tolerate chaos and anarchy. From any camp, regardless of personal feeling, or considerations of political advantage on either side, this case should have been settled far short of the present calamitous showdown; and would have been had calm judgment prevailed to reason its way to a solution. Instead, free rein was given to tempers.

MISSISSIPPI COULD HAVE resolved this issue, as have other states—including Tennessee—no less mindful of states' rights in policy determination, and opposing compulsory integration, but aware of the legal obstacles erected when turned back by every level of the federal judiciary. They bowed to the necessity for observance of the law, however much it incurred individual or mass resentment.

Throughout this ordeal, state by state and section-wide, there has been the incitement to hysteria, much of it cultivated by aggravating processes of various pressure groups. And the outrageous fact is, which these elements are indifferent—that the Negro as an individual or citizen group has been the born in all of this political booby-trapping on the part of Democrats and Republicans alike—exploited by the parties in power.

The present is no exception.

PRESIDENT KENNEDY last night spoke to the point of peaceful solution. Via reason on both sides. His firm and temperate message, though late, was addressed to the mind and heart of a thinking people; and was respectful of each making the vast constituency of Mississippi.

The *Banner* does not believe that it was either necessary or advantageous to send troops, as such, as they were almost immediately dispatched. The *National Guard of Mississippi* had been federalized, and was on the scene, along with hundreds of U.S. marshals—a force adequate to any task of law enforcement, or the purpose to which they were assigned.

As it did in the case of Little Rock, when it was President Eisenhower dispatching the 101st Airborne Division, on Mr. Kennedy's order, of a sovereign state.

Two factors there were present almost automatically calculated to touch off the student rioting that occurred: (1) the night of federal forces, deemed a trespass; and (2) the presence of former Maj. Gen. Edwin Walker, whooping it up for a demonstration of resistance. The latter was no less out of place than the former, and a contributory circumstance to the turmoil erupting into tragedy.

Oxford, Miss. (UPI)—Negro James Meredith registered today at the University of Mississippi and began attending classes on a campus littered with the debris of a major riot that took two lives and injured at least 75 persons.

"It is not a happy occasion," he said.

About 100 U.S. deputy marshals and 1,000 federal troops guarded the campus as the 26-year-old Negro cracked the segregation barriers of the 114-year-old school.

The campus was brought under military control early in the day but the rioting spread to downtown Oxford and at least one soldier was hurt in a battle between the troops and rioters before the campus was brought under control.

At least 30 rioters were wounded. They were ordered to leave the campus and were taken to a nearby hospital. The rioting continued for several hours before the campus was brought under control.

'Round The Clock
WITH
AND O'DONNELL
MORNING MESSAGE
Piney Knoll gave some State Fair tickets to Jean (7), Billy (9) and Becky (11) Martin, 3300 25th Ave. S.

John's letter of thanks read: "I enjoyed the fair very much. I was a little shy at first but they're to lay to write."

CINEMA GIG
Marque: "Cotton-Pat" starred on "Light Film" and "Other Selected Works."

Market Trends
New York 10:30—The stock market took another fairly sharp tumble in moderately active trading early this afternoon.

Weather Report
Nashville forecast—Cloudy and mild with periods of rain. High 65, low 45.

Temperature
12 midnight 65 7 a.m. 65
2 a.m. 65 9 a.m. 65
4 a.m. 65 11 a.m. 65
6 a.m. 65 1 p.m. 65
8 a.m. 65 3 p.m. 65
10 a.m. 65 5 p.m. 65
12 noon 65 7 p.m. 65
2 p.m. 65 9 p.m. 65
4 p.m. 65 11 p.m. 65
6 p.m. 65 1 a.m. 65
8 p.m. 65 3 a.m. 65
10 p.m. 65 5 a.m. 65
12 midnight 65 7 a.m. 65

STON
TABLE

Bar

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TABLE

Fire Over Oxford Mob er Quelling Campus Riot



Little gear more through a crowd of townspeople in square in Oxford, Miss., home of the embattled campus of the University of Mississippi.—AP Wirephoto.



They escort a group of prisoners to the National Guard following a disturbance today in downtown Oxford, Miss., site of riots protesting registration of a Negro at the University of Mississippi.—AP Wirephotos.

Meredith Registered; Two Die, Scores Hurt

BULLETIN

Former Maj. Gen. Edwin A. Walker was arrested today at a road block in Oxford, Miss., and charged on four offenses. Attorney General Robert F. Kennedy in Washington announced the charges, which included inciting to rebellion or insurrection, conspiring to commit this offense, conspiring to hinder Federal officers in their duties and assaulting a Federal officer.

By CECIL ROLLAND

OXFORD, Miss., Oct. 1.—Rifle fire cracked here today as Army troops moved in to clear marauding gangs out of the area around the town's public square. Infantrymen with fixed bayonets methodically moved down streets leading from the square after a morning of disorders brought about by roving groups carrying on the battle over the enrollment of James H. Meredith in the University of Mississippi.

The 28-year-old Negro student was enrolled in the university this morning while Federal troops poured

More Pictures on Pages A-6, 7; Other Stories on Pages A-3, 4, 5.

into Oxford after a night of wild and uncontrolled rioting on the nearby Ole Miss campus left two dead and scores injured.

Troops from the 2nd (Indianhead) Infantry Division moved systematically down streets leading from the town square and in thorough fashion drove all the troublemakers from the area.

They were using live bullets but seemed to be firing over the heads of those fleeing before them.

Many of the young men were rounded up and with their hands held high were collected at street corners and then hauled away in trucks.

The townspeople said they were strangers and apparently had come in from other places.

There were no immediate reports of casualties.

The university campus remained quiet after soldiers with fixed bayonets disbursed a mob which rioted there most of the night.

The Negro student was registered in the university this morning behind the massed might of the Federal Government and troops carrying rifles with fixed bayonets.

As this compliance with Federal court orders was being carried out, roving gangs wandered through the courthouse square and along adjoining streets pelting Army convoys and foot soldiers who occupied the square with rocks, bottles, sticks and even a garbage can.

The gangs were made up of both youths and older men and hurled a barrage of taunts at the soldiers whenever they appeared.

Tossed Tear Gas

The Army first moved infantrymen into the area around the courthouse. They marched around the square and across the courthouse lawn before taking up positions.

After enduring the jeers and missile barrages, the infantrymen suddenly tossed tear gas canisters at those who had been tormenting them and cleared the square.

Some of the infantrymen were Negroes and this served to infuriate even more the people who were collected around the square.

Nearly all business establishments around the large square, in the heart of this Deep South town, closed and locked their doors.

About one block south of the square, many young men, who appeared not to be natives of Oxford, congregated at the intersections of State Routes 6 and 7, principal arteries through town.

They hurled bricks at nearly every car that tried to run the gauntlet.

Convoys Still Pelted

Even with increasing numbers of troops along the streets and in the square, groups of young men still bombarded passing convoys with bottles, rocks and other missiles.

As one convoy passed through the town's center, a heavy log was dropped from a second floor balcony on one of the passing vehicles.

The firing was attributed by the Associated Press to Mississippi National Guard troops from Tupelo.

The rioting in Oxford came after James H. Meredith had appeared in the square—clad in a dark blue suit and wearing a 10-gallon hat, the Associated Press reported.

He stayed in the square briefly, spoke quietly to some of those in the crowd nearest the troops, and then backed off as military eyes watched him closely.

The Confederate flag hung at half staff in front of the White House.

See MEREDITH, Page A-6

Workers Administration Sees Barnett Kennedy Says He Did Duty As Breaking His Promise

Acts
elkout

By MIRIAM OTTENBERG

Gen. Robert F. Kennedy today said that he was confident that the President would maintain his contract with the Negro student James H. Meredith.

He said that the President was bringing the University of Mississippi campus—and then, in the administration's view, broke, his promise.

The off-again-on-again role of the Governor came to light today as his apparent capitulation and assurance of safe passage for the student were reported.

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The off-again-on-again role of the Governor came to light today as his apparent capitulation and assurance of safe passage for the student were reported.

MEREDITH BEGINS FIRST DAY WITH COLONIAL STUDY

OXFORD, Miss. (AP)—

Negro James Meredith's first scheduled class today was a student at the University of Mississippi.

Other courses being taken by the first known Negro to enroll at the 114-year-old institution include English, political science, mathematics and Spanish.

Mr. Meredith is living in a two-room apartment in Baxter Hall. The apartment includes a kitchenette.

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generally agreed on a plan to put Mr. Meredith on the campus Sunday behind a Federal force.

Yesterday morning, Gov. Barnett called the Attorney General with something similar in mind. He asked for a show of force to justify his capitulation but promised that the Federal forces would run into no opposition.

Agreed on Two Points

The Attorney General and the Mississippi Governor concurred on two points: the use of telephone three or four times during the morning.

Finally, at about 10:45 a.m., the Governor agreed on two points.

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Broadcast Grim But Conciliatory

By the Associated Press

President Kennedy declared it was his inescapable duty to call out troops when Mississippi defied court orders to enroll a Negro at the State University.

After his address, Mr. Kennedy sat beside the telephone in his office getting up-to-the-minute reports on rioting, gunfire and tear gas averaging across the university campus at Oxford—and the arrival of reinforcements.

Attorney General Robert F. Kennedy and several members of the White House staff kept off as military eyes watched him closely.

The Confederate flag hung at half staff in front of the White House.

See KENNEDY, Page A-6

[fol. 2031]

DEFENDANT'S EXHIBIT 1

STATEMENT OF TALMADGE WITT OF PONTOTOC, MISSISSIPPI

I am Talmadge Witt, 42 years old, I live in Pontotoc County, Mississippi, and I am a deputy sheriff under Sheriff John H. Moore of that county, and have been serving as such deputy since March 1, 1960. I was acting as such deputy on September 30, 1962, and was called by Sheriff Faulkner of Union County to come to Oxford, Mississippi, getting that call about 3 p.m. on the 30th day of September, 1962. Shortly after receiving this call I went to Oxford with Cecil Payne, another deputy from Pontotoc County. We went directly to the campus of the University of Mississippi and arrived there sometime around 4:30 o'clock p.m.

When I got on the campus of the University, the United States Marshals were already around the Lyceum Building, that is, a building with big white columns in front, facing in an easterly direction. There was a paved roadway in front of that building, and the marshals were lined up along the side of that roadway next to the building; on the other side of the roadway, and all out in front of the building, were some men and boys and girls, with the roadway between them and the marshals. The crowd out in front of the building was not as big then as it was later, but it gradually grew larger from then on. When I got to this place there were a number of highway patrolmen and other officers in the roadway, between the marshals and the crowd, keeping the crowd back from the marshals, and I joined them and helped to do this.

The crowd grew larger as time passed, and the lights were turned on, on the campus. At this time there was not as much disorder as there was later, there was some loud talk, and some of those in the crowd would throw or flip lighted cigarettes and matches towards the marshals and on the cloth top of some of the army trucks which were there. It is difficult to remember the exact time that events happened, but after I had been there about an hour and a half to two hours, and at a time when I was standing

across the road in front of said building, the marshals fired [fol. 2032] the first blasts of tear gas and the crowd scattered and ran away, and I, of course, went some distance away, also, but still stayed in the area down in front of the Lyceum Building. For some time, after the first tear gas was fired, the crowd simply milled around, many of them armed themselves with bricks or pieces of broken bricks, rocks, sticks, coca cola bottles and anything that they could get their hands on, and when they could get close enough, they would throw these things at and towards the marshals, and the tear gas would drive them back. The crowd did not seem to have any definite leadership at that time, and simply milled around, hollering, yelling, shouting and talking among themselves.

Somewhere along during this time it seemed that all of the State Highway Patrolmen left the campus, as did also some of the law officers, that is, sheriffs and deputy sheriffs, but I stayed on to render any assistance that I could. Sometime around 8 o'clock p.m., or a little later, I began to hear different ones say, "here comes General Walker." I did not know him prior to that time, and when I first saw him he was walking towards a Confederate monument which was several hundred yards in an easterly direction from the marshals at the Lyceum Building. People in the crowd around General Walker began to say different things. Several of them began to say, "we have got a leader now," or "here is our leader." I had on my deputy sheriff's badge, and shortly after General Walker arrived in the territory of the Confederate monument, he came up to me, shook hands and said: "I would like for you to deputize me to help in this matter." I told him that I did not have authority to do that, that I was a deputy sheriff and was not a deputy in that county.

I was close to General Walker all of the time, from the time when he first arrived, until a considerable time thereafter.

Some few minutes after this, various people were asking General Walker to lead them and to make them a speech

and tell them what to do, and after awhile he got up on the side of the Confederate monument and made a talk. [fol. 2033] I cannot recall all the things he said, but I do remember his saying these things: "Violence is not the answer, Cuba is that way," and pointed south. He said: "Protest, protest, all you want to, you have a right to protest, and they may run out of gas." He said: "Help is on the way, thousands are coming."

A preacher had been following General Walker around asking him not to lead the crowd, but to get them to stop what they were doing. This preacher said to Walker: "They will listen to you and do anything you say, please get them to stop and go home," and Walker said: "I am here to watch what happens—I am not interested in stopping it," and then Walker asked the preacher what denomination he was, and the preacher replied "Episcopalian," and Walker said: "You make me ashamed that I am an Episcopalian." About this time I heard some serious threats made against the preacher by people in the crowd, after Walker said what he did to him, and I was afraid the preacher was going to be hurt, so I took him by the arm and pulled him and carried him out of the crowd. Two men came up to the edge of the crowd and stated that they were friends of the preacher, and asked me what I was doing with him: I told them that someone was going to hurt him if he did not leave, and I suppose they left with him, as I never saw them any more.

After some in the crowd had asked Walker if he would lead them, he stepped down from the side of the monument and said: "Keep protesting and see if we can get closer." He then started towards the marshals and the crowd of at least a thousand by that time, followed him. This crowd was armed with sticks, rocks, coca cola bottles and other things, as I have heretofore stated. They seemed to have anything that they could get their hands on, and when they got close enough, they would throw towards the marshals. When the front of this crowd, which General Walker was

with, got in about 200 feet of the marshals, they fired another blast of tear gas, and the crowd ran back, with General Walker with them. At all times during this, I was near or in sight of General Walker and stayed in sight of him until about 5 a.m. the next morning.

[fol. 2034] On a number of occasions Walker would walk towards the marshals, or in that general direction, and whenever he did, a large crowd would fall in behind and follow him. In fact, wherever Walker went, the crowd followed. During the time after the first march towards the marshals with Walker in or near the lead, I heard different statements, many of which I cannot remember, but at one time, in talking with a group about the protest they were making, he said, "good, good, keep it up." I heard people asking how to snuff out or counteract the tear gas, and Walker told them to use water, and right after that they got a fire truck and hose and began to try to use that to stop the gas. I saw a group making Molotov cocktails. They were taking coca cola bottles and putting gasoline in them and putting some kind of wick in them, setting the wicks afire, and they would then throw this towards the marshals. I did not hear Walker say anything about the Molotov cocktails, but I did see him in the vicinity of where they were being made. During all of this time, when Walker was there, and at the time when he was telling them to continue to protest, the men and boys in the crowd were armed as I stated before, they were throwing the Molotov cocktails, they were setting automobiles afire, and I personally counted sixteen automobiles that were burned. There was a new building going up near the scene of the rioting, and the students and others would get bricks over there, I saw them roll wheelbarrows up loaded with bricks, and they would break them up and take them in their arms when they went towards the marshals. Many of the lights were broken out around the campus, especially around the flagpole that was between the (illegible).

In reading over the foregoing, I notice it appears that what the preacher first said to Walker about stopping the rioting, was said after he got on the monument, and this is not correct: It was before Walker got up on the monument that the preacher was urging him to try to stop the rioting and get them to go home, and it was before he got [fol. 2035] up on the monument that Walker replied, "I am here to watch what happens—I am not interested in stopping it." It was after he got on the monument or about the time he got on the monument to make the speech that he asked the preacher what denomination he was, and the preacher replied "an Episcopalian." I simply wanted to add this to my statement in order to clear it up.

This the 25th day of November, 1963.

/s/ TALMADGE WITT
Talmadge Witt

Mr. Meredith after Mr. Meredith and his escort entered the Lyceum and returned without finding the proper classroom, Edward O. Guthmann, spokesman for the Justice Department, said:

"Meredith will assert Merced."

Jensen Meredith is believed about as likely to be elected State Chief Marshal

Order Given

All of a sudden the emphasis changed. The driver came and said, "We're going to get out of here this time a minute or consider."

"Hold gas," said a little major "never gas."

Federal troops that took over Little Rock, is on the opposite side of the fence here.

Mr. Walker, who is the state's attorney and others on the campus of the University of Mississippi had noticed when it

born herbed at Baxter Hall, the campus apartment building where Mr. Meredith was housed last night.

The Government built up its strength during the night to seize the hall in the dormitory. An Army spokesman said 4,000 regular troops now are in Oxford. The town's population is 5,300.

Commons students must be from the four-colored plain and went to a telephone booth with Mr. McInnes clutching a handful of dimes.

Seven Army trucks drove up the marshals, numbering the sheets to lined up near the trucks. They stood and waited. A little later an Air Force plane came down and dis-

left a hundred yards from the marshes.

In a short while Mississippi State police, several hundred strikers were withdrawn from the immediate fighting area and then moved off the campus.

This left the marshals and the small contingent of Army bomb engineers sent here as a home-

used on their car was home-

[illegible]

The march was scheduled for 10:00 a.m. and was led by several hundred marshals who lined the route. The march was the largest in the city since the 1968 election. The march was led by several hundred marshals who lined the route. The march was the largest in the city since the 1968 election.

much to everyone's surprise. The captain turned the ship into one of the fastest ships in the fleet without opposition from the crew.

It is commander. Capt. Mur-

Garvin

out of hand under the cover of

the situation rapidly get

tonal Guard which had been

ing of the Mississippi Na-

ity from it to be heading

the captain turned the ship

much to everyone's surprise.

lived in Oxford, was among a few hijinks over Ole Miss's officials who are here to expect those injured. He was struck football victory over Kentucky. The marshals quickly air-veers and here married away by and headed back to the airport.

[illegible]

about two-thirds of this cut.

The bricks and timber used to build the barricade on the drives leading to the administration building were taken from the University of Kentucky. Kennedy said and was taken through the campus along the road to the university. Kennedy said that the bricks and timber used to build the barricade on the drives leading to the administration building were taken from the University of Kentucky. Kennedy said that the bricks and timber used to build the barricade on the drives leading to the administration building were taken from the University of Kentucky.

SENATE COMMITTEE REJECTED
about two-thirds of this cut,
but a coalition of conservative
Democrats and Republicans will
try to trim it closer to the
House figure.

KENNEDY
Continued From Page A-1
the night with the Chief Execu-
live.

The President did not get to
bed until about 3:30 a.m. today

The marshals, for the most part, stayed close around the building except for forays to drive the attackers back. They captured 31 prisoners during the night's rioting.

Two of these were operating the bulldozer and the firetruck. The truck made two successful runs close to the marble before it was stopped amid a cloud of tear gas.

A United States marshal, Graham Sime, was critically wounded by a gunshot in the neck and was flown to the hospital at the Memphis Naval Air Station for emergency treat-

ment. He was pronounced dead on arrival.

A British student, Ray Gunter, of Oxford, also was fatally shot. He was taken from the university campus to Oxford Hospital, where he was pronounced dead on arrival.

The operator, a Justice spokesman said, was not a student.

Most of the action and the bitterest fighting took place in front of the building.

Engineers arrived Early in the morning the engineers had arrived at Oxford Lake, 15 miles from Oxford, and set up a housing

for students and outsiders, who were crying for his blood.

Yellers Attacked about 600 reporters and

ment. Another aircraft was wounded in the thick battle. The Memphis Bill Order of the Associated Press was wounded in the back by a burst of gunfire. Several members of the Mississippi State patrol also were wounded. The whole area is strewn today with the debris of the flattening-employment, and burned. The whole area is strewn today with the debris of the flattening-employment, and burned. The whole area is strewn today with the debris of the flattening-employment, and burned.

The troops, arriving early the morning forced the rioters into the streets and the rioters were scattered by the police. The police were told when they learned that Mr. Meredith.

hulls that make up the 440-acre Old Miss campus. They left behind the litter of battle and the hulks of a half dozen burned out cars.

Military police arrested 93 as rioters' wrath was directed only against the rioters more at the marshals than at the Negro students who had been shot.

Brother Eastland, Democrat State marshal handled the situation

Later this morning, about 11:30, a crowd of about 100 people gathered on the campus at the intersection of the main administration building and the law school building. The crowd was made up of students, faculty, and staff. They were gathered to protest the university's decision to allow the National Guard to enter the campus. The crowd was peaceful and did not cause any damage to property. The university officials stated that they were taking necessary precautions to ensure the safety of the campus and the surrounding area. They also stated that they were working to resolve the situation as quickly as possible.

Mr. Walker, the man who led the troops ordered by President Johnson into Little Rock in 1957 in another desegregation battle, led a thousand soldiers to the scene where that summer with a widely reported number of attacks against demonstrators. The rioting broke out in which the force of United States troops was sent to Mississippi, the campus town of the University of Mississippi, to quell a riot that night a special edition of the paper, "would be distributed early Monday morning. The statement of the board of trustees of the University of Mississippi, critical of the various officials there, was from that Mr. News

ps Fire Over Oxford Mob ter Quelling Campus Riot



candidate of the University of Minnesota—AP Wirephoto

shops in battle gear move through a crowd of townspeople
day at the square in Oxford, Miss. home of the embattled

Army troops escort a group of prisoners to the National Guard Armory following a disturbance today in downtown Oxford, Miss., site of riots protesting registration at the University of Mississippi.—AP Wirephotos.

Black Workers' Administration Sees Barnett Kennedy Says He Did Duty on Strike As Breaking His Promise

President Acts To End Walkout

IS DONE WITHOUT
NEW YORK, Oct. 1 (AP)—
The Supreme Court today
upheld the President and
the Attorney General that his
State police could maintain
order if Negro student James
H. Meredith was brought to
the University of Mississippi cam-
pus—and then, in the adminis-
tration's view, "he broke his
word."

The off-again-on-again role of the Governor came to light as his apparent capitulation and assurances of safe passage to the untested long-term back to the famous last night

**MEREDITH BEGINS
FIRST DAY WITH
COLONIAL STUDY**

OXFORD, Miss. 'AP.—
Nero, James Meredith's
first scheduled class today
as a student at the Trin-
iversity of Mississippi was
Colonial American history.
Other courses include Latin

Other courses being taken by the first known Negro to enroll at the 114-year-old institution include English, political science, mathematics and Spanish.

generally agreed on a plan to put Mr. Meredith on the campaign Sunday behind a Federal force.

Yesterday morning, Gov. Battista called the Attorney General with something similar in mind. He asked for a show of force to justify his capitulation but promised that the Federal force would run into no opposition.

Agreed on Two Points
The Attorney General and
the Mississippi Governor con-
sulted by telephone three or
four times during the morning.
Finally at about 10:45 a.m.

**Broadcast Grim
But Conciliatory.**
See the Associated Press

President Kennedy declares it was his inescapable duty to recall out troops when Mississippi defied court orders to enroll a Negro at the State University.

times, the Presidents said last night in a short radio-television address to the Nation that he hoped it would be unnecessary to use troops, even though conciliation and persuasion had failed to obtain admission of James W. Meredith.

**Meredith Registered;
Two Die, Scores Hurt**

BULLETIN

Former Maj. Gen. Edwin A. Walker was arrested today at a road block in Oxford, Miss., and charged on four offenses. Attorney General Robert F. Kennedy in Washington announced the charges, which included inciting to rebellion or insurrection, conspiring to commit this offense, conspiring to hinder Federal officers in their duties and assaulting a Federal officer.

By CECIL HOLLAND

OXFORD, Miss., Oct. 1.—Rifle fire cracked here today as Army troops moved in to clear marauding gangsters out of the area around the town's public square.

Infantrymen with fixed bayonets methodically mowed down streets leading from the square after a morning of disorders brought about by roving groups carrying on the battle over the enrolment of James H. Meredith in the University of Mississippi.

—The 29-year-old Negro student was enrolled in the university this morning while Federal troops poured

More Pictures on Pages A-4, 7; Other Stories on Pages A-5, 6, 9.

Troops from the 2nd 'Indianhead' Infantry Division moved systematically down streets leading from the town square and in thorough fashion drove all the troublemakers from the area.

Many of the young men were rounded up and with their hands held high were collected at street corners and then hauled away in trucks.

The townspeople said they were strangers and apparently had come in from other places.

The university campus remained quiet after soldiers with fixed bayonets dismounted a mob which rioted there most of the night.

The Negro student was registered in the university this morning behind the massed might of the Federal Government and troops carrying rifles with fixed bayonets.

As this compliance with Federal court orders was being carried out, roving gangs wandered through the courthouse square and along adjoining streets pelting Army convoys and foot soldiers who occupied the square with rocks, bottles, sticks and even a garbage can.

The gangs were made up of both youths and older men and hurled a barrage of taunts at the soldiers whenever they appeared.

Tested Year Class

The Army first moved infantrymen into the area around the courthouse. They marched around the square and across the courthouse lawn before taking up positions.

After enduring the jeers and missile barrages, the Infantrymen suddenly tossed tear gas canisters at those who had been tormenting them and cleared the square.

Some of the infantrymen were Negroes and this served to infuriate even more the people who were collected around the square.

Nearly all business establishments around the large square, in the heart of this Deep South town, closed and locked their doors.

About one block south of the square, many young men who appeared not to be natives of Oxford, congregated at the intersections of State Routes 6 and 7, principal arteries through town.

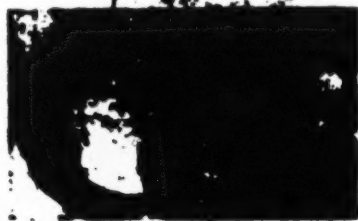
They hurled bricks at nearly every car that tried to run at the gauntlet.

Casey's 2011 Polls

Even with increasing numbers of tanks along the streets and in the square, groups of young men still bombarded passing convoys with bottles, rocks and other missiles.

As one convoy passed through the town's center, a passing convoys with bottles, rocks and other missiles.

Newsman Killed in Riot Worked on His Day Off



PAUL COUTURE

the author of a one-act great
sard's comedy, "The Desk
Chair." It played about five
months, off-Broadway last
year.

**Walker Aids Bands
Fighting U.S. in Oxford**

of a file of soldiers as though he were their inspecting officer. Finally, an Army officer asked him to move. He refused. The officer ordered several soldiers carrying rifles with bayonets alongside him. The soldiers held their bayonets within inches of the former general, but did not touch him. The officer said something to Mr. Walker and he walked off through the crowd.

Court Upholds Conviction of Fake Lawyer

The United States Court of Appeals today upheld the convictions of Daniel James O'Leary, 34, of New York City, and two World War II veterans who received a three-to-15-year prison sentence for impersonating a lawyer.

The 51-year-old ex-serviceman said the Appellate Court is mainly the District Court's review on the grounds that O'Leary's defense attorneys' sentences was "disproportionately harsh in relation to the essential nature of the of-

\$10,000 Winner At Dice Shot By 'Poor Loser'

A Southeast Washington man has learned just how dangerous a poor loser can be. The "winner," Robert E. Anderson, 23, of 4004 E street, S.E., told police he was shot in the legs and robbed of \$10,000 by one of the players in a dice game at a home in the 4000 block of Ninth street N.W. last Monday.

Polio Advisers Called by Terry

Dr. the Associated Press

Surgeon General Luther L. Terry announced today he has named a special advisory committee to study oral polio vaccines to report tomorrow.

United States Public Health Service officials said they are not certain what the reason for the meeting is, other than the fact that the health department's advisers to consider any additional information that has become available since they last met on September 11, and to make another look at the general situation.

Tomorrow's meeting will be the fourth for the group set up by Dr. Terry to evaluate the National's experience with oral polio vaccines and to make recommendations.

Nuclear Sub Safety

LONDON, Oct. 1 (AP).—The British Admiralty has issued orders forbidding men serving aboard nuclear submarines to wear watches with luminous dials. The order said such dials might emit a radioactive gas that could affect instruments in nuclear subs.

KENNEDY

Continued From Page A-1

Washington Was First To Call Federal Troops

President Kennedy's use of troops in Mississippi in a long series of such operations dating all the way back to George Washington. Washington used Federal troops in 1794 to put down the Whisky Rebellion, in which farmers in Western Pennsylvania objected to a liquor tax. In 1892 President John Adams used troops in Eastern Pennsylvania against rebellious citizens who refused to pay Federal taxes. John Price was arrested, and after several trials, was pardoned by the President.

Slave Act Riot
Coxey's Army in 1894 was

CONGRESS

Continued From Page A-1

Another bill which could see an adjustment is an omnibus bill authorizing \$2 billion authorization for the Federal Reserve to control, river and harbor projects, which is still tied up in the House Public Works Committee.

Closely related to this measure is the public works appropriation bill, which passed the Senate today ahead of foreign aid bills. Most of this money is for the construction of public works projects authorized in the Federal Reserve Act.

The House is expected to act on the measure this week on the possibility of increasing the bill to which the Senate attached pay increases for Federal employees. The

... must decide whether to

of yards from frightening students as dark-
new came.
jumped on a In a short while Mississippi
terrace memorial State police, several hundred
strong were withdrawn from
the immediate fishing area
the university, and then moved off
the campus.
quit. We can camp
This left the marshals and
'while armed,' a small contingent of Army
gear gas bombs engineers, sent here as a house-
ing on their at- keeping unit for the marshals,
Department to hold off the repeated at-
tacks.
said
The first firing warning
s and another campus were left wide open and
a fire hose anyone who wished could walk
down the darkened streets to
ward the administration build-
ing. The building was often
being bathed in drifting smoke from
the bombs that had been set
off.
As unexpectedly as the State
police roadblocks were called
off, they were restored for
the marshals

By this time hundreds had gathered at the airport and lined the road leading into town. Much to everyone's surprise the caravan turned abruptly into one of the weedy paths that crisscrossed the campus. This blocked off the university grounds from groups of men who seemed to be heading there in increasing numbers. The first military brass appearing on the campus. The Mississippi National Guard contingent which had been sent to the campus. The first military brass appearing on the campus. The Mississippi National Guard contingent which had been sent to the campus.

Quiet Week End

The night's wild disorders came after an otherwise quiet week end here marked only by a few hiccups over Ole Miss' football victory over Kentucky Saturday night in Jackson.

The marshals quickly surrounded the administration buildings and two hours later without opposition from the state police guards. Within a few minutes the empty galle carriers came out another gate and headed back to the airport.

The marshals quickly surrounded the administration buildings and two hours later

Mr. Meredith was brought to Oxford. He landed in a small plane at the airport, accompanied by John Doar of the Justice Department and a marshal and two plainclothesmen. The mob gathered without incident through the streets to the building. The crowd was estimated at 100,000. Rumors flew thick and fast that the mob was going to burn the building down. The National Guard was called in to surround the building. The mob was dispersed by the use of tear gas. The building was not damaged. The mob was dispersed by the use of tear gas. The building was not damaged.

Reporters, not allowed in, watched from the entrance as racial blocks away. They could hear yells and cheers, occasionally a shot, and got frequent reports from students who came in from the dorms.

Friday, returned in force early and went. As dusk came the "mood of Sunday. They seeped off the campus and would permit no one except students and those on grounds and outside began to leave the campus. News-chasers. At the airport Mr. McShane was asked by a young woman to "forbearing panic for a woman's liberation movement."

Students	admittance	Engineers	Arrived	Early in the morning the engineers had arrived at Oxford, and set up a housekeeping camp for the marauders.	Yellers Attacked	About dark reporters outside the hall.	A few hours later a mob of first of students and then of students and outsiders, was crying for his blood.
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[fol. 2038]

DEFENDANT'S EXHIBIT 3

[Stamp—U. S. Court of Appeals—Filed Jul 27 1962—
Edward W. Wadsworth, Clerk]

[Handwritten notation—I concur—JRB—D DeV]

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

—
No. 19475
—

JAMES H. MEREDITH, on behalf of himself and others
similarly situated, Appellant,

v.

CHARLES DICKSON FAIR, President of the Board of Trustees
of the State Institutions of Higher Learning, Et Al.,
Appellees.

—
Order Vacating Stay, Recalling Mandate, and
Issuing New Mandate Forthwith

Before Brown and Wisdom, Circuit Judges, and DeVane,
District Judge.

Judge Wisdom:

In this case time is now of the quintessence. Time has
been of the essence since January 1961 when James Mere-
dith, in the middle of his junior year at Jackson State
College (for Negroes), applied for admission to the Uni-
versity of Mississippi.

This Court heard three appeals of the case. In its opin-
ion on the last appeal we concluded:

“... [F]rom the moment the defendants discovered
Meredith was a Negro they engaged in a carefully
calculated campaign of delay, harassment, and mas-
terly inactivity. It was a defense designed to dis-
courage and to defeat by evasive tactics which would

have been a credit to Quintus Fabius Maximus. . . . We see no valid, non-discriminatory reason for the University's not accepting Meredith. Instead, we see a well-defined pattern of delays and frustrations, part of a Fabian policy of worrying the enemy into defeat while time worked for the defenders."

Chronology highlights this case. June 25, 1962, this Court reversed the district court and remanded the case with instructions that the district court grant the injunction prayed for in the complaint. Rule 32 of the Rules of the [fol. 2039] Fifth Circuit, in part, reads:

"Mandate shall issue at any time after twenty-one days from the date of the decision, unless an application for rehearing has been granted or is pending. If such application is denied the mandate will be stayed for a further period of ten days. No further stay will be granted unless applied for within the delay given above. A mandate once issued will not be recalled except by the court and to prevent injustice."

During the twenty-one day period the defendants did not apply to this Court for a rehearing or for a stay of mandate. July 17 the mandate went down. Bright and early July 18, the attorney for the defendant presented to the Clerk for filing an order staying "the execution and enforcement of the mandate". The order, dated July 18 at Meridian, Mississippi, was signed by the Honorable Ben F. Cameron, United States Circuit Judge. Judge Cameron was not a member of the Court which heard any of Meredith's appeals. The Court which determined the cause was composed of Circuit Judges Brown and Wisdom and District Judge DeVane, sitting by designation. July 19 the Clerk, acting under instructions from this Court, telegraphed the parties through their counsel, requesting that they exchange and file, within five days, "statements of their positions with memorandum briefs for or against

the granting of any stays, including the vacating of the stay entered by Judge Cameron, the issuance by this Court of injunctions pending further appeal, or other appropriate action". The Court has now received and considered the statements and their supporting briefs.

It is unnecessary to decide whether a judge who is not a member of the Court determining the cause is not "a judge of the Court rendering the judgment or decree" within the meaning of 28 U.S.C.A. §2101(f). See Application of Chessman, 1954, 75 Cal. S. Ct. 85, 274 P. 2d 645. [fol. 2040] The Court is bigger than a single judge. Assuming, but without deciding, that Judge Cameron is indeed a judge of "the court rendering the judgment", we hold that the court determining the cause has inherent power to review the action of a single judge, whether or not the single judge is a member of the panel. Rosenberg v. United States, 1953, 346 U. S. 273, 73 S. Ct. 1152, 97 L. Ed. 1607, reconsideration denied, 346 U. S. 324, 73 S. Ct. 1171, 97 L. Ed. 1634, reconsideration denied, 346 U. S. 324, 73 S. Ct. 1178, 97 L. Ed. 1634. A contrary position would allow a judge in the minority, were he a member of the panel deciding the case, to frustrate the mandate of the majority. *And, it is unthinkable that a judge who was not a member of the panel should be allowed to frustrate the mandate of the Court.*

All of the members of this Court agree that when a mandate has been issued, it is logically and legally too late to stay it. Unless the Court should recall the mandate, the Court's control over the judgment below comes to an end after the mandate has been issued. That is the plain meaning of Rule 32. The authorities fully support the rule. Omaha Electric Light & Power Co. v. City of Omaha, 216 Fed. 848, setting aside on rehearing decree in 179 Fed. 455, which aff'd 172 Fed. 494, appeal dismissed 230 U. S. 123, 57 L. Ed. 1419, 33 S. Ct. 974; In re Nevada-Utah Mines & Smelters Corp., 204 Fed. 982, denying rehearing 202 Fed. 126. For this reason the purported stay is vacated and set aside.

Judge Brown and Judge Wisdom are also of the opinion that even if the thin residual control an appellate court might have over an issued mandate were broad enough to support a stay in exceptional cases, here the stay order should be vacated and set aside on the ground that it was improvidently granted.

[fol. 2041] Judge Cameron did not sit on this case. He did not have the opportunity of a sitting judge to study the record, to hear the argument, to discuss the facts and the law in the judges' conference on the case.

This is not a Chessman case. It is not a Rosenberg case. It is not a matter of life or death to the University of Mississippi. Texas University, the University of Georgia, Louisiana State University, the University of Virginia, other Southern universities are not shriveling away because of the admission of Negroes. There was no emergency requiring prompt action by a single judge. Apparently, however, there was studied action by the applicants' attorney to avoid asking the Court for a rehearing or for a stay.

In the matter of stays, this Court is not at all in the position of the Supreme Court. The Supreme Court is the final arbiter of the ultimate answer to any question sought to be preserved by a stay. Courts of Appeal, on the other hand, have disciplined themselves to take a restricted view of the propriety of issuing stays. When time is of the essence to the successful party in the Court of Appeals a stay should be predicated upon a doubtful question of law unresolved by earlier court decisions and there should be a reasonable likelihood of the Supreme Court finally deciding in favor of the applicant for a stay. See Rule 32 of the Rules of the Fifth Circuit Court of Appeals. As recently as October 26, 1961, the Fifth Circuit Court, with only Judge Hutcheson absent, rendered the following order:

"Stays of Mandates of the Court after the denial of a motion for rehearing are to be cautiously granted to avoid situations such as where the applicant was the losing party in the trial court and there has been no grant of supersedeas."

Chief Justice Taft, in *Magnum Import Co. v. Coty*, 1923, 262 U. S. 159, 164, 43 S. Ct. 531, 67 L. Ed. 922, established [fol. 2042] guidelines for granting stays which have withstood the years:

"The petition should, in the first instance, be made to the circuit court of appeals, which, with its complete knowledge of the cases, may, with full consideration, promptly pass on it. That court is in a position to judge, first; whether the case is one likely, under our practice, to be taken up by us on certiorari; and second, whether the balance of convenience requires a suspension of its decree and a withholding of its mandate. It involves no disrespect to this court for the circuit court of appeals to refuse to withhold its mandate or to suspend the operation of its judgment or decree pending application for certiorari to us. If it thinks a question involved should be ruled upon by this court, it may certify it. If it does not certify, it may still consider that the case is one in which a certiorari may properly issue, and may, in its discretion, facilitate the application by withholding the mandate or suspending its decree. This is a matter, however, wholly within its discretion. If it refuses, this court requires an extraordinary showing before it will grant a stay of the decree below pending the application for a certiorari, and even after it has granted a certiorari, it requires a clear case and a decided balance of convenience before it will grant such stay."

In *United States v. Louisiana*, 1960, 364 U. S. 500, 81 S. Ct. 260, 5 L. Ed. 2d 245 the Supreme Court was requested to grant a stay of a three judge court decision which nullified a series of Louisiana laws aimed at maintaining a state-wide policy of school segregation. In denying the request for a stay, pending appeal, the Supreme Court ruled, "The scope of these enactments and the basis on which they were found in conflict with the Constitution of the United States are not matters of doubt." Similarly, in *Evans v. Ennis*,

1960, 364 U. S. 802, 81 S.Ct. 27, 5 L.Ed.2d 36, the Supreme Court denied a stay of a decision by the Court of Appeals for the Third Circuit holding a grade a year plan of desegregation invalid in the State of Delaware. *Evans v. Ennis*, 1960, 3 Cir., 281 F.2d 385. On the same day, the Supreme Court denied a stay in a school segregation case from Houston, Texas; *Houston Independent School District v. Ross*, 1960, 364 U. S. 803, 81 S. Ct. 27, 5 L.Ed.2d 36, where [fol. 2043] a district court rejected the school board plan and entered an order embodying its own grade a year plan. *Houston Independent School District v. Ross*, 1960, 5 Cir., 282 F.2d 95. See also *Orleans Parish School Board v. Bush and Davis v. Williams*, 1960, 364 U. S. 803, 81 S.Ct. 27, 5 L.Ed.2d 36. In *Lucy v. Adams*, 1955, 350 U. S. 1, 76 S.Ct. 33, 100 L.Ed. 3, the Supreme Court vacated a stay granted by a District Court of its order directing the admission of the first two Negroes to the University of Alabama pending appeal to the Fifth Circuit. The court there held that where the rights are personal and present and where the stay issue is coextensive with that on the merits, the stay should be denied. See also, *Cooper v. Aaron*, 1958, 358 U.S. at 27, 78 S.Ct. 1397, 3 L.Ed.2d 1. The Supreme Court also refused to reverse the action of Chief Judge Tuttle of the Fifth Circuit when he vacated a stay granted, by the District Court, pending appeal, in the University of Georgia case. *Danner v. Holmes*, 1961, 364 U.S. 939, 81 S.Ct. 376, 5 L.Ed. 2d 371. In this case Judge Tuttle's order stressed the fact that it was unlikely that this Court would reverse the District Court's decision in a case in which there had been a trial on a motion for preliminary injunction and a final hearing on the merits where all the facts aired in a lengthy trial and the judge made lengthy and careful findings of fact. See also, *Hawkins v. Board of Control*, 1958, 5 Cir., 253 F.2d 752, where this Court issued its mandate forthwith when the District Court delayed further adjudication of Hawkins' right to enter the University of Florida after nine years of litigation through the state court. In *Tureaud v. Board of Supervisors of L.S.U.*, 1953, 346 U. S. 881, the

Supreme Court stayed this Court's reversal of the District Court's injunction order ordering the admission of a Negro student to L.S.U. As a result of the Supreme Court's stay pending certiorari, the injunction order of the District [fol. 2044] Court was reinstated and the applicant was able to enter the University of Louisiana.

The defendants have an absolute right to apply for a writ of certiorari—regardless of whether the mandate is stayed or issued. Denial of a stay is a minor inconvenience to the defendants. But to allow a stay would subject the successful litigant, Meredith, to the injustice of additional delays. Partly to avoid such a possibility, and to bring the case to a prompt ending after a full trial on the merits, this Court denied a preliminary injunction. Unfortunately, the wording of the mandate, "*that an injunction issue as prayed for in the complaint*" was so loose as to defeat the intentions of the Court. Accordingly, the mandate must be clarified by being recalled and amended.

There is no doubt as to the power of the court to recall its mandate. Thus, in *Wichita Royalty Co. v. City Nat. Bank of Wichita Falls*, 5 Cir., 1938, 97 F.2d 249, the Fifth Circuit held: "[The Court has the] power to recall the mandate and rehear the case, though too late under our rules regularly to do so." The opinion was written by Judges Sibley, Holmes, and Mize. In that case the term at which judgment was rendered had not closed. It had not in this case. However, "the power exists to recall the mandate and set aside the judgment even after the expiration of the term during which the judgment became final, but a court of appeals in the exercise of that power usually is guided by its own applicable rules, such as a requirement that good cause must be shown in order for a mandate to be recalled." 14 *Cyclopedia of Federal Procedure*, §69.14. See *Hines v. Royal Indemnity Co.*, 6 Cir., 253 F.2d 111. See also Judge Holmes' opinion for this Court in *Sun Oil Co. v. Burford*, 5 Cir., 1942, 130 F.2d 10.

[fol. 2045] It is now forthwith ordered that the mandate and judgment of this Court be recalled and amended by

making explicit the meaning that was implicit in this Court's conclusions as expressed throughout its opinion in this cause, dated June 25, 1962. To this end, the order will now read as follows:

The case is reversed and remanded with directions to the District Court forthwith to grant all relief prayed for by the plaintiff and to issue forthwith a permanent injunction against each and all of the defendants-appellees, their servants, agents, employees, successors and assigns, and all persons acting in-concert with them, as well as any and all persons having knowledge of the decree, enjoining and compelling each and all of them to admit the plaintiff-appellant, James H. Meredith, to the University of Mississippi under his applications heretofore filed, which are declared by us to be continuing applications. Such injunction shall in terms prevent and prohibit said defendants-appellees, or any of the classes of persons referred to from excluding the plaintiff-appellant from admission to continued attendance at the University of Mississippi. Pending such time as the District Court has issued and enforced the orders herein required and until such time as there has been full and actual compliance in good faith with each and all of said orders by the actual admission of plaintiff-appellant to, and the continued attendance thereafter at the University of Mississippi, this Court herewith issues its own preliminary injunction enjoining and compelling each and all of said parties to admit plaintiff-appellant to, and allow his continual attend-[fol. 2046] ance at the University of Mississippi, further prohibiting and preventing said parties or any other of them from excluding said plaintiff-appellant from attendance to and continued attendance thereafter on the same basis as other students at the University of Mississippi.

Judge Cameron's stay order dated July 18 is forthwith vacated and set aside. The mandate in this cause is forth-

with recalled and amended as set forth herein. This Court's preliminary injunction against the defendants-appellees is forthwith issued.

Judge DeVane concurs in the result.

A true copy

EDWARD W. WADSWORTH
Clerk, U. S. Court of Appeals, Fifth Circuit
/s/ (Signature Illegible)
Deputy

(Seal)

New Orleans, Louisiana

May 14, 1964

[fol. 2047]

DEFENDANT'S EXHIBIT 4

[Stamp—U. S. Court of Appeals—Filed Sep 12 1962—
Edward W. Wadsworth, Clerk]

SUPREME COURT OF THE UNITED STATES

No., October Term, 1962

JAMES MEREDITH, Petitioner,

vs.

CHARLES DICKSON FAIR, ET AL.

ORDER

UPON CONSIDERATION of the application of counsel for the movant and of the opposition of the respondents thereto,

It Is ORDERED that the orders of Circuit Judge Ben F. Cameron of the United States Court of Appeals for the Fifth Circuit of July 18, 1962, July 28, 1962, July 31, 1962, and August 6, 1962; purporting to stay the effectiveness of the mandates of the United States Court of Appeals for the

Fifth Circuit be, and the same are hereby, vacated and that the judgment and mandate of said Court shall be effective immediately.

IT IS FURTHER ORDERED that the respondents be, and they are hereby, enjoined from taking any steps to prevent enforcement of the United States Court of Appeal's judgment and mandate pending final action by this Court on the petition for writ of certiorari now on the docket.

/s/ HUGO L. BLACK
Associate Justice of the Supreme
Court of the United States

Dated this 10th day of September, 1962.

A true copy JOHN F. DAVIS

Test:

Clerk of the Supreme Court of the United States
Certified this Tenth day of September 1962

By B. F. CULLINAN
Chief Deputy

A true copy

Test: EDWARD W. WADSWORTH

Clerk, U. S. Court of Appeals, Fifth Circuit

By (Signature illegible)
Deputy

New Orleans, Louisiana

May 14, 1964

[fol. 2048]

DEFENDANT'S EXHIBIT 5

[Stamp—Southern District of Mississippi—Filed Sep 14
1962—by Loryce E. Whafton, Clerk, by Deputy],

IN THE UNITED STATES DISTRICT COURT

FOR THE JACKSON DIVISION OF THE
SOUTHERN DISTRICT OF MISSISSIPPI

JAMES HOWARD MEREDITH, On Behalf Of Himself
And Others Similarly Situated

V.

No. 3130

CHARLES DICKSON FAIR, President of the Board of Trustees
of the State Institutions of Higher Learning, et al.

ORDER GRANTING PERMANENT INJUNCTION

This matter is now before this Court by virtue of the Mandate of the United States Court of Appeals for the Fifth Circuit and the Mandate of Mr. Justice Black of September 10, 1962 setting aside all stays granted by Judge Ben F. Cameron and putting into effect the mandates of the Court of Appeals for the Fifth Circuit enjoining the Trustees and officials of the University of Mississippi from taking any steps to prevent enforcement of the mandates of the Court of Appeals for the Fifth Circuit, and this Court having now considered the mandates of the Court of Appeals for the Fifth Circuit of July 17, 1962, July 27, 1962 and its final order of August 4, 1962, and this Court having considered the mandate of July 17, 1962 wherein the Court of Appeals reversed the judgment of the District Court with directions to this Court to issue an injunction as prayed for in the complaint and by its mandate of July 27, 1962 ordered that the judgment of that Court issued as and for the mandate on July 17, 1962, be recalled and amended by making explicit the meaning that was im-

plicit as expressed in its opinion dated June 25, 1962 and ordering that this Court "forthwith grant all relief prayed for by the plaintiff and to issue forthwith a permanent injunction against each and all of the defendants-appellees, their servants, agents, employees, successors and assigns, and all persons acting in concert with them, as well as any and all persons having knowledge of the decree, enjoining [fol. 2049] and compelling each and all of them to admit the plaintiff-appellant, James H. Meredith, to the University of Mississippi under his applications heretofore filed, which are declared by us to be continuing applications. Such injunction shall in terms prevent and prohibit said defendants-appellees, or any of the classes of persons referred to from excluding the plaintiff-appellant from admission to continued attendance at the University of Mississippi."

And by its mandate of August 4, 1962 the Court of Appeals reaffirmed its orders of July 17, 1962 and July 27, 1962 in the following language: "All of our orders of July 17, July 27 and this date, therefore continue in full force and effect and require full and immediate obedience and compliance."

Now, therefore, it is here ordered, adjudged and decreed that the plaintiff, James Howard Meredith, be and he is hereby granted all the relief that is prayed for by him in his complaint and that the defendants, Charles Dickson Fair, President of the Board of Trustees of State Institutions of Higher Learning of the State of Mississippi, Louisville, Mississippi; Euclid Ray Jobe, Executive Secretary of the Board of Trustees of State Institutions of Higher Learning of the State of Mississippi, Jackson, Mississippi; Edgar Ray Iward, Hazlehurst, Mississippi; Leon Lowrey, Olive Branch, Mississippi; Ira Lamar Morgan, Oxford, Mississippi; Malcolm Mette Roberts, Hattiesburg, Mississippi; William Orlando Stone, Jackson, Mississippi; S. R. Evans, Greenwood, Mississippi; Verner Smith Holmes, McComb, Mississippi; James Napoleon Lipscomb, Macon,

Mississippi; Tally D. Riddell, Quitman, Mississippi; Harry Gordon Carpenter, Rolling Fork, Mississippi; Robert Bruce Smith, II, Ripley, Mississippi and Thomas Jefferson Tubb, West Point, Mississippi, Members of the Board of Trustees of State Institutions of Higher Learning; James Davis Williams, Chancellor of the University of Mississippi, Oxford, Mississippi; Arthur Beverly Lewis, Dean of the College of Liberal Arts of the University of Mississippi, [fol. 2050] Oxford, Mississippi, and Robert Byron Ellis, Registrar of the University of Mississippi, Oxford, Mississippi, and each of them, their agents, servants, employees, successors, attorneys and all persons in active concert and participation with them be and they hereby are permanently restrained and enjoined from:

(1) Refusing to admit plaintiff, James Howard Meredith immediately to the University of Mississippi and that they shall each of them be, and they are hereby required to admit him to the University of Mississippi upon the same terms and conditions as applicable to white students;

(2) From interfering in any manner with the right of plaintiff, James Howard Meredith to matriculate in, or attend the University of Mississippi;

(3) From taking any action or doing any act or being guilty of any conduct which will impair, frustrate or defeat his right to enter the University of Mississippi;

(4) Refusing to admit the plaintiff, James Howard Meredith to the University of Mississippi upon his applications heretofore filed, all of which are continuing applications.

It is further ordered that said defendants, or any of the classes of persons referred to, are prohibited and enjoined from excluding the said James Howard Meredith from admission to continued attendance at the University of Mississippi.

It is further ordered that the defendants, their servants, agents, employees, successors and assigns, and all persons

acting in concert with them, are enjoined to admit the plaintiff, James Howard Meredith to the University of Mississippi upon his applications heretofore filed and they are enjoined from excluding the said James Howard Meredith from admission to continued attendance at the University of Mississippi or discriminating against him in any way whatsoever because of his race.

[fol. 2051]. It is further ordered that a copy of this order and injunction be served by the United States Marshal on each of the defendants herein.

ORDERED, this the 13th day of September, 1962.

/s/-S. C. MIZE
United States District Judge

[Seal]

A true copy, I hereby certify.

Loryce E. Wharton, Clerk, By: E. Mathison,
Deputy Clerk.

[fol. 2052]

DEFENDANT'S EXHIBIT 6

[Stamp—U. S. Court of Appeals—Filed Sep 28 1962—
Edward W. Wadsworth, Clerk]

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 19,475

 JAMES H. MEREDITH,

Appellant,

vs.

CHARLES DICKSON FAIR, et al.,

Appellees.

 UNITED STATES OF AMERICA,
Amicus Curiae and Petitioner,

vs.

STATE OF MISSISSIPPI, et al.,

Defendants.

 (Marginal initials illegible)

 FINDINGS OF FACT, CONCLUSIONS OF LAW AND
JUDGMENT OF CIVIL CONTEMPT.

Before TUTTLE, Chief Judge, and HUTCHESON, RIVES, JONES,
BROWN, WISDOM, GEWIN and BELL, Circuit Judges.

This Court having on September 25, 1962 issued orders requiring Ross R. Barnett to appear before this Court today at 10:00 A. M., to show cause, if any he has, why he should not be held in civil contempt of the temporary restraining orders entered in this action on September 25, 1962, and Ross R. Barnett having been given notice of the orders to show cause, and it having been regularly called

on the calendar for hearing at 10:00 A. M. this day, and Ross R. Barnett having failed to appear or respond in person or by counsel, and having failed to deny the factual statements contained in the verified application of the United States, and of the appellant and

The Court having heard and received evidence on behalf of the United States and of the appellant, and having de-[fol. 2053] liberated and considered the legal issues involved, now renders its Findings of Fact and Conclusions of Law and Judgment as follows:

FINDINGS OF FACT

1. Since this Court entered its order of July 28, 1962, and the District Court for the Southern District of Mississippi entered its order on September 13, 1962, requiring the admission of James H. Meredith to the University of Mississippi, Ross R. Barnett, as Governor of the State of Mississippi, has issued a series of proclamations calling upon all officials of the state to prevent and obstruct the carrying out of the Court's orders with respect to the admission of James H. Meredith to the University. Two of these proclamations were issued by Ross R. Barnett on September 24 and September 25, 1962.

2. On September 25, 1962, this Court entered its temporary restraining orders restraining Ross R. Barnett from interfering with or obstructing in any manner or by any means the enjoyment of rights or the performance of obligations under this Court's order of July 28, 1962 and the order of the District Court of September 13, 1962.

3. At approximately 4:30 P. M. on September 25, 1962, Ross R. Barnett, having full knowledge of the existence and terms of this Court's temporary restraining orders, went to the office of the Board of Trustees of Institutions of Higher Learning in Jackson, Mississippi at a time when James H. Meredith was due to appear at the office and be enrolled as a student in the University of Mississippi, pursuant to the

order of this Court. When James H. Meredith arrived at the office and sought to enter for the purpose of enrolling, Ross R. Barnett deliberately prevented him from entering and told him that his application for enrollment was denied by Ross R. Barnett.

4. On September 26, 1962, James H. Meredith sought to enter the campus of the University of Mississippi in Oxford, [fol. 2054] Mississippi. He was prevented from entering by Paul B. Johnson, Jr., Lieutenant Governor of the State of Mississippi, acting pursuant to the instructions and under the authorization of Ross R. Barnett.

5. The conduct of Ross R. Barnett in preventing James H. Meredith from enrolling as a student in the University of Mississippi has been with the deliberate and announced purpose of preventing compliance with the orders of this and other federal courts.

CONCLUSIONS OF LAW

1. This Court has jurisdiction of the person of Ross R. Barnett.

2. Ross R. Barnett is in contempt of the temporary restraining orders entered by this Court on September 25, 1962.

[fol. 2055] JUDGMENT OF CIVIL CONTEMPT

Upon the foregoing findings of fact and conclusions of law:

IT IS ORDERED, ADJUDGED AND DECREED THAT:

Ross R. Barnett is in civil contempt of the temporary restraining orders of this Court entered September 25, 1962; that such contempt is continuing; and that Ross R. Barnett shall be committed to and remain in the custody of the Attorney General of the United States and shall pay a fine to the United States of \$10,000. per day unless on or before

Tuesday, October 2nd, 1962 at 11:00 a.m. he shows to this Court that he is fully complying with the terms of the restraining orders, and that he has notified all law enforcement officers and all other officers under his jurisdiction or command:

(a) To cease forthwith all resistance to and interference with the orders of this Court and the District Court for the Southern District of Mississippi;

(b) To maintain law and order at and around the University and to cooperate with the officers and agents of this Court and of the United States in the execution of the orders of this Court and of the District Court for the Southern District of Mississippi to the end that James H. Meredith be permitted to register and remain as a student at the University of Mississippi under the same conditions as apply to all other students.

Nothing herein shall prevent a later assertion of a charge of criminal contempt against Respondent.

[fol. 2056] Jurisdiction is hereby reserved for such other and further orders as may be appropriate.

Judges Jones, Gewin and Bell dissent from that portion of the judgment imposing a fine upon the Respondent.

[Seal]

A true copy

EDWARD W. WADSWORTH
Clerk, U. S. Court of Appeals, Fifth Circuit

/s/ (Signature Illegible)
Deputy

New Orleans, Louisiana

May 14, 1964

[fol. 2057]

DEFENDANT'S EXHIBIT 7

It is time to move. We have talked, listened, and been pushed around far too much by the Anti-Christ Supreme Court. Rise to a stand beside Governor Ross Barnett at Jackson, Mississippi. Now is the time to be heard: Ten thousand strong from every State in the union. Rally to the cause of freedom. The Battle Cry of the Republic. Barnett, Yes! Castro, No! Bring your flag, your tent, and your skillet. It's time. Now or never. The time is when and if the President of the United States commits or uses any troops, Federal or State, in Mississippi.

The last time—in such a situation—I was on the wrong side. That was in Little Rock, Arkansas in 1957 and 1958. This time I am out of uniform and I am on the right side. And I will be there.

[Handwritten notation—Station KWKH—Shreveport, La.
—“Party Line”—Wed Sept 26 '62 about 7:30 P. M.—
by Ted Walker]

[fol. 2058]

DEFENDANT'S EXHIBIT 8

I am in Mississippi—beside Governor Ross Barnett.

I call for a national protest against the conspiracy from within.

Rally to the cause of Freedom in righteous indignation, violent vocal protest and bitter silence under the Flag of Mississippi at the use of Federal troops.

This today is a disgrace to the Nation in “Dire Peril”—a disgrace beyond the capacity of anyone except its enemies. This is the conspiracy of the crucifixion by the anti-Christ conspirators of the Supreme Court in their denial of prayer and their betrayal of a nation.

EDWIN A. WALKER

[Handwritten notation—Sat. Sept 29th (about 5:00 P.M.)
—from Jackson—from Ney Williams res.]

[fol. 2059]

DEFENDANT'S EXHIBIT 11

ON TO MISSISSIPPI.

As the forces of the New Frontier assemble to the North let history be witness to the courage and determination that calls us to Oxford to support a courageous Governor. His lawful stand for state sovereignty is supported by thousands of people beyond the state borders now on the way to join you at Oxford.

[Handwritten notation—Sunday—Sept 30 Called back by Ted from Oxford—about 9: A.M.]

[fol. 2060]

DEFENDANT'S EXHIBIT 12

RADIO INTERVIEW—WNOE

FRIDAY, SEPTEMBER 28, 1962

GENERAL EDWIN WALKER

INTERVIEWER: General Walker, do you still intend to follow through with your plans to go to Mississippi after the government warning today, supposedly that you will be held in contempt?

GENERAL WALKER: I plan to go to Mississippi as I had intended if and when federal troops are used in Mississippi. I do not feel that there is any constitutional law that prevents a citizen moving from state to state or place to place as he sees fit, and there are hundreds of causes moving to Mississippi, or that are reflecting their attitudes in Mississippi, and I am only a small part of this movement, and I intend to be there if and when the decision is made to use federal troops there.

INTERVIEWER: Well, do you personally, sir, believe that that order will be given by Attorney General Robert Kennedy?

GENERAL WALKER: I would hope that they certainly do not use federal troops as it was a catastrophe when they did it before in 1957 and '58 in Little Rock. It was unconstitutional then, as several governors had pointed out, and also many members of the bar, and they should read the [fol. 2061] Constitution more carefully and they would recognize this is unconstitutional. There is no law that requires integration.

INTERVIEWER: Well now, sir, what do you think the repercussions would be if these federal troops are sent to Oxford, and, as a matter of fact, the State of Mississippi?

GENERAL WALKER: I am not sure. It depends on what their mission is and what they are supposed to do and how they carry out that mission, and what the intents are after they get to Mississippi. I would say it certainly is obvious now that the cause of state rights extends far beyond Mississippi, and practically every state of the union is recognizing the importance of the sovereignty of the state, and that is very much involved, greatly involved, in this issue.

INTERVIEWER: Sir, what has been the general reaction to your plans of going to Mississippi with groups of citizens? I'm sure you have heard from quite a few people throughout the United States.

GENERAL WALKER: We are just utterly swamped here with telephone calls and offers of help and assistance and notifications that people are moving to Mississippi and that they want to assist in every way possible; that they are opposed to what the administration is doing in opposing the governor in Mississippi. I can assure you that the telephones shall never stop ringing. Calls are backed up six

[fol. 2062] and eight deep. People are telling me it's taking four or five hours to even get into our telephone system, and we have seven phones in the house. Messages are coming in offering support in groups of 10 to 20 to even 2,000.

INTERVIEWER: Well, sir, do you find these telegrams and well wishes from people throughout the United States are predominantly southern, or are they also coming from the north and the west and from the east?

GENERAL WALKER: They are from all parts of the country. Many have come in from Ohio, just a few minutes ago from St. Paul, quite a few from New York, Florida, of course, Los Angeles, and many of the states in between. I have just gotten off the line to Seattle, Washington.

INTERVIEWER: Do you have plans, sir, for rallies, if and when the federal troops are entered into Mississippi, of a certain point in the state where all your followers will then meet with you to protest the integration, if it does come about?

GENERAL WALKER: I intend to join the movement. There are thousands of people, I am sure, already in Mississippi—probably hundreds of thousands there—that are already standing beside their Governor Barnett. The best place to do this would, of course, be at the Capitol or at Oxford, at the university, since that is where the issue is involved, and I am sure that that is where most of the move-
[fol. 2063] ments will move to, to show the grass roots movement in this issue.

INTERVIEWER: One final question, sir. Just what were your thoughts when acting as an officer of the United States Army when you were commanded to enter Little Rock? What were your thoughts in 1957, seeing these same type of citizens in another state, so opposedly or reportedly opposing federal seizure, or federal acts, against a sovereign state, supposedly?

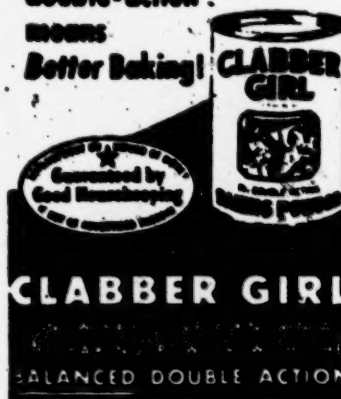
GENERAL WALKER: At that time I knew it was unconstitutional, and felt that it was at that time, in using troops, and it should never have been done. My principles have not changed, but now, out of uniform, I'm on the other side, and this time on the right side, and that is in opposition to unconstitutional actions by the federal government, and I'm very happy to be free from the requirements of the military service in those cases where the military service has been unconstitutionally used against the citizens of the United States. It would appear to me with all the problems in the international situation, and with an enemy, and a very critical enemy, 90 miles off our coast, it would be as utterly fantastic, as well as impossible, that the administration should now be in a cause and a purpose which is as to the disunity of the United States of America, when the important thing is today that all Americans be unified [fol. 2064] against the one and only important enemy in the world today—the one who has established that he intends to bury us—and by the President's own statement, this country is in dire peril.



You should know
THIS
about baking...

It's the BALANCE of ingredients in baking powder that governs its leavening action. Only when these are scientifically balanced can you be sure of uniform action in the mixing bowl plus that final, balanced rise to light and fluffy texture in the oven... That's the story of Clabber Girl's balanced double action... Better Baking everytime!

BALANCED
double-action
means
Better Baking!



Text of General's Speech to Students

Here is the text of the speech made by Maj. Gen. Edwin A. Walker to the students of Little Rock Central High School yesterday morning:

Young ladies and gentlemen of Central High School. Mr. Blossom, your superintendent of schools, has asked me to come to your school this morning and discuss with you the situation in Little Rock and what it means to you students. I welcome this opportunity to do so.

As you know, the Fourteenth Amendment to the Constitution of the United States guarantees to all citizens the equal protection of the laws. Since the adoption of this amendment, many states have provided separate schools for their children on the basis of color. The laws establishing such schools have, however, been challenged in the courts; and about three years ago, the Supreme Court of the United States determined that such laws are contrary to the provisions of the Fourteenth Amendment and consequently invalid. This decision by the highest court in the land is, of course, an authoritative interpretation of our Constitution, is binding on all citizens and government officers, both state and federal, and may not, under our law, be changed except by an amendment to the Constitution.

Because of the Supreme Court's decision, it became necessary for those states maintaining separate schools to revise their systems to eliminate distinctions on the basis of color. The nature of these plans was left to the states and local communities, subject to approval by the local federal district courts. The Little Rock School District prepared such a plan which was approved by both the District Court and Circuit

Court of Appeals. This plan provides for a very gradual abandonment of the separate school system starting this year.

Subsequent to the approval of this plan, attempts were made in the courts to prevent the school authorities from putting it into effect.

I need not go into the details of this litigation; sufficient to say, it was unsuccessful, and that the plan as originally approved remains unchanged and in full force and effect.

During the past few weeks, as you are well aware, the situation in Little Rock has been such as to prevent the entrance of a few students into your high school. Therefore, to see that the laws of the land be faithfully executed, the president has found it necessary to call the National Guard of Arkansas into the federal service and has directed that this force and such other armed forces as may be made available be used to enforce the orders of the court. As an officer of the United States Army, I have been chosen to command these forces and to execute the president's orders.

What does all this mean to you students? You have often heard it said, no doubt, that the United States is a nation under law and not under men. This means that we are governed by laws, properly decided upon by duly constituted authority, and not by the decrees of one man or one class of men. Since this is true, it means that we are all subject to all the laws, whether we approve of them personally or not, and as law-abiding citizens, have an obligation in conscience to obey them. There can be no exceptions; if it were otherwise, we would not be a strong nation but a mere unruly mob.

I believe that you are well-

intentioned, law-abiding citizens, who understand the necessity of obeying the law, and are determined to do so. You have nothing to fear from my soldiers, and no one will interfere with your coming, going or your peaceful pursuit of your studies. However, I would be less than honest if I failed to tell you that I intend to use all means necessary to prevent any interference with the execution of your School Board's plan. This is what I have been ordered to do, and I intend to carry out my orders. Those who interfere or disrupt the proper administration of the school will be removed by the soldiers on duty and turned over to the local police for disposition in accordance with the laws of your community.

One last word about my soldiers. They are here because they have been ordered to be here. They are seasoned, well-

trained soldiers, many of them combat veterans. Being soldiers, they are as determined as I to carry out their orders. However, as I stated before, the law-abiding people have nothing to fear from them. They have been carefully instructed not to molest any law-abiding citizen in his person or property, and they will obey these orders. Since a peaceful atmosphere must be maintained in the school and its vicinity, it may be necessary for them to issue instructions concerning such things as loitering, assembling in large groups, and otherwise making it difficult for them to perform their duties. I earnestly ask that you co-operate, for your own benefit and ours.

I wish you all success in your school year and Mr. Matthews (the principal), I thank you for the opportunity to talk to the student body.

Irish Ambassador's Son Shot By Friend

Washington, Sept. 25 (U). — The son of Irish Ambassador John J. Hearne was shot and killed today. Police said a pistol in the hands of a friend discharged accidentally.

The victim, John Justin Hearne, 20, died with a bullet in his chest.

Police Capt. Albert Embrey said the pistol was fired by John E. Kieffer Jr., 22, in an office building where Kieffer's father operates the Universal Research and Consultants, Inc., a public relations firm.

Police quoted young Kieffer as saying the shooting occurred when he started to take the pistol from a drawer. Kieffer added, police said, that young Hearne also reached for the weapon and might have touched the trigger.

7 Brazilians Killed In Rent Battle

Rio de Janeiro, Brazil, Sept. 25 (U). — A battle over rents between squatters at Santo Antonio and a colonization company killed at least seven persons and sent many Brazilian villagers across the border to Argentina for refuge, reports reaching here said today.

Santo Antonio is in the southern tip of Brazil.

Lights Out!

New York, Sept. 25 (U). — An all-night beacon near the top of the Empire State Building will be kept turned off until November 1 so as not to interfere with the southern migration of birds. Many birds, thrown off course by the light, have crashed into the building or the ground.

Satchmo Changes His Mind

Deavenport, Ia., (UP). — Louis ("Satchmo") Armstrong greeted the news of President Eisenhower's action in the Little Rock situation by proclaiming today "this is the greatest country." He indicated he may change his mind about abandoning a government-sponsored tour of Russia.

"Things are looking a lot better than they did before," the Negro jazz trumpeter told newsmen today.

He said "it was just wonderful" the way President Eisenhower explained his action in sending troops to Little Rock.

"The president said the troops are going down there and that's all right with me, it won't start any trouble," Armstrong said.

Armstrong last week accused Eisenhower of having "no guts" in dealing with the Little Rock situation and announced he would turn down a State Department invitation to tour Russia. He changed his tune today.

He said he had sent the president a telegram saying, "if you decide to walk into the schools with the colored kids, take me along daddy. God Bless you."

Biggest Truck

Lyon, France, Sept. 25 (U). — The firm of Berliet will unveil what it calls the world's biggest and strongest truck at the Paris auto show opening October 3. Made for Sahara desert work, it carries 100 tons of freight, has a 600-horsepower engine weighing 5,530 pounds, carries 400 gallons of fuel, and has wheels 7 feet 3 inches in diameter. The main Sahara interest now is oil.

[fol. 2066]

DEFENDANT'S EXHIBIT 15

GENERAL SERVICES ADMINISTRATION

NATIONAL ARCHIVES AND RECORDS SERVICE

THE NATIONAL ARCHIVES

(Seal)

ALL TO WHOM THESE PRESENTS SHALL COME,
GREETING:

I CERTIFY That the annexed copy, or each of the specified number of annexed copies, of each document listed below is a true copy of a document in the official custody of the Archivist of the United States.

Proclamation No. 3497

Obstructions of justice in the State of Mississippi

IN TESTIMONY WHEREOF, I, WAYNE C. GROVER, Archivist of the United States, have hereunto caused the Seal of the National Archives to be affixed and my name subscribed by the Director, Office of the Federal Register of the National Archives, in the District of Columbia, this 20th day of March, 1964.

/s/ WAYNE C. GROVER
Archivist of the United States

By /s/ DAVID C. EBERHART

[fol. 2067]

OBSTRUCTIONS OF JUSTICE IN THE STATE
OF MISSISSIPPI

BY THE PRESIDENT OF THE UNITED STATES
OF AMERICA

A PROCLAMATION

WHEREAS the Governor of the State of Mississippi and certain law enforcement officers and other officials of that State, and other persons, individually and in unlawful assemblies, combinations and conspiracies, have been and are willfully opposing and obstructing the enforcement of orders entered by the United States District Court for the Southern District of Mississippi and the United States Court of Appeals for the Fifth Circuit; and

WHEREAS such unlawful assemblies, combinations and conspiracies oppose and obstruct the execution of the laws of the United States, impede the course of justice under those laws and make it impracticable to enforce those laws in the State of Mississippi by the ordinary course of judicial proceedings; and

WHEREAS I have expressly called the attention of the Governor of Mississippi to the perilous situation that exists and to his duties in the premises, and have requested but have not received from him adequate assurances that the orders of the courts of the United States will be obeyed and that law and order will be maintained:

NOW, THEREFORE, I, JOHN F. KENNEDY, President of the United States, under and by virtue of the authority vested in me by the Constitution and laws of the [fol. 2068] United States, including Chapter 15 of Title 10 of the United States Code, particularly sections 332, 333

and 334 thereof, do command all persons engaged in such obstructions of justice to cease and desist therefrom and to disperse and retire peaceably forthwith.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this 30th day of September in the year of our Lord nineteen hundred and sixty-two, and of the Independence of the United States of America the one hundred and eighty-seventh.

By the President:

/s/ JOHN F. KENNEDY

/s/ GEORGE W. BALL
Acting Secretary of State

[Stamp—The National Archives and Records Service—
Filed and Made Available for Public Inspection—Sep 30
10:50 AM '62—In the Office of the Federal Register]

[fol. 2069]

DEFENDANT'S EXHIBIT 16

GENERAL SERVICES ADMINISTRATION

NATIONAL ARCHIVES AND RECORDS SERVICE

THE NATIONAL ARCHIVES

(Seal)

ALL TO WHOM THESE PRESENTS SHALL COME,
GREETING:

I CERTIFY That the annexed copy, or each of the specified number of annexed copies, of each document listed below is a true copy of a document in the official custody of the Archivist of the United States.

Executive Order 11053

Providing assistance for the removal of unlawful obstructions of justice in the State of Mississippi

IN TESTIMONY WHEREOF, I, WAYNE C. GROVER, Archivist of the United States, have hereunto caused the Seal of the National Archives to be affixed and my name subscribed by the Director, Office of the Federal Register of the National Archives, in the District of Columbia, this 20th day of March, 1964.

/s/ WAYNE C. GROVER
Archivist of the United States

By /s/ DAVID C. EBERHART

[fol. 2070]

EXECUTIVE ORDER

**PROVIDING ASSISTANCE FOR THE REMOVAL OF
UNLAWFUL OBSTRUCTIONS OF JUSTICE IN THE
STATE OF MISSISSIPPI**

WHEREAS on September 30, 1962, I issued Proclamation No. 3497 reading in part as follows:

"WHEREAS the Governor of the State of Mississippi and certain law enforcement officers and other officials of that State, and other persons, individually and in unlawful assemblies, combinations and conspiracies, have been and are willfully opposing and obstructing the enforcement of orders entered by the United States District Court for the Southern District of Mississippi and the United States Court of Appeals for the Fifth Circuit; and

"WHEREAS such unlawful assemblies, combinations and conspiracies oppose and obstruct the execution of the laws of the United States, impede the course of justice under those laws and make it impracticable to enforce those laws in the State of Mississippi by the ordinary course of judicial proceedings; and

"WHEREAS I have expressly called the attention of the Governor of Mississippi to the perilous situation that exists and to his duties in the premises, and have requested but have not received from him adequate assurances that the orders of the courts of the United States will be obeyed and that law and order will be maintained:

[fol. 2071] "NOW, THEREFORE, I, JOHN F. KENNEDY, President of the United States, under and by virtue of the authority vested in me by the Constitution and laws of the United States, including Chapter 15 of Title 10 of

the United States Code, particularly sections 332, 333 and 334 thereof, do command all persons engaged in such obstructions of justice to cease and desist therefrom and to disperse and retire peaceably forthwith;" and

WHEREAS the commands contained in that proclamation have not been obeyed and obstruction of enforcement of those court orders still exists and threatens to continue:

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and laws of the United States, including Chapter 15 of Title 10, particularly Sections 332, 333 and 334 thereof, and Section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

Section 1. The Secretary of Defense is authorized and directed to take all appropriate steps to enforce all orders of the United States District Court for the Southern District of Mississippi and the United States Court of Appeals for the Fifth Circuit and to remove all obstructions of justice in the State of Mississippi.

Section 2. In furtherance of the enforcement of the aforementioned orders of the United States District Court for the Southern District of Mississippi and the United States Court of Appeals for the Fifth Circuit, the Secretary of Defense is authorized to use such of the armed forces of the United States as he may deem necessary.

Section 3. I hereby authorize the Secretary of Defense to call into the active military service of the United States, as he may deem appropriate to carry out the purposes of this order, any or all of the units of the Army National Guard and of the Air National Guard of the State of Mississippi to serve in the active military service of the United States for an indefinite period and until relieved by appropriate orders. In carrying out the provisions of Section

1, the Secretary of Defense is authorized to use the units, and members thereof, ordered into the active military service of the United States pursuant to this section.

Section 4. The Secretary of Defense is authorized to delegate to the Secretary of the Army or the Secretary of the Air Force, or both, any of the authority conferred upon him by this order.

/s/ JOHN F. KENNEDY

THE WHITE HOUSE

September 30, 1962

[Stamp—The National Archives and Records Service—
Filed and Made Available for Public Inspection—Sep 30
11:30 AM '62—In the Office of the Federal Register]

DEFENDANT'S EXHIBIT 17

Walker Meritfully Able To Stand Trial, Judge Says

LEVEL NOV 22 1962

OXFORD, Miss., Nov. 22 (AP)—Edwin A. Walker, the controversial former Army major general, has been ruled mentally competent to stand trial on charges of seditious conspiracy and inciting an insurrection.

U. S. District Judge Claude F. Clayton, who is an Army National Guard brigadier general, handed down the ruling Wednesday at the end of a two-day hearing to determine whether there was reasonable cause for a mental examination of the 53-year-old Walker.

The lone Texan was arrested here Oct. 1 after the degeneration rioting at the University of Mississippi which killed two persons.

Shortly before Clayton ruled in the Walker case, he ordered Chief U. S. Marshal James McShane released from the Lafayette County jail. McShane had surrendered to Sheriff Joe Ford on state charges of inciting a riot and breach of peace during the rioting.

McShane and one other person—who has not yet been identified—were indicted last week by the county grand jury after it prohibited the rioting which followed the arrival of Negro James H. Meredith on the university campus.

The judge set no date for Walker's trial. He accepted a mental test given Walker earlier this month at Dallas.

The judge said the examination made by Dr. Robert L. Stubblefield, professor at Southern Medical School in Dallas, "was essentially negative. No opinion was expressed. It did not say whether he was sane or insane."

Clayton added that from his observation of Walker's behavior while testifying Wednesday he "found that this man is competent" to aid in his defense of such criminal charges as may be presented.

Stubblefield's report, said Walker is "functioning currently at the superior level of intelligence."

The report said, "on the Wechsler adult intelligence scale, his reasoning, judgment, vocabulary, fund of information, and organizational ability were all above average for his age group."

Judge Clayton overruled defense objections that his earlier order for a mental test he erased from the court record. Although the judge held that Walker was mentally competent to stand trial, the primary purpose of the hearing was the defense motion to strike the sanity test order.

Clyde J. Watts of Oklahoma City, one of Walker's four attorneys, said Clayton's decision in placing the mental test in the case record would be appealed. Walker said afterward he felt he had been subjected to

a great injustice. Clayton, recently chosen to command the 31st (Dixie) Division of Mississippi and Alabama national guardsmen, expressed the greatest respect for Walker's military career.

Walker was questioned by his attorneys during the hearing and gave details of his arrest by federal troops. Neither he nor his attorneys mentioned his actions the night of the rioting.

Walker also discussed his controversial reprimand and loss of command of the 24th Division over a troop indoctrination program in Germany. He later resigned his Army commission.

Clayton said he would hold a hearing for McShane late in January. The Justice Department claimed McShane was "doing duties as a federal official" on the university campus.

After the release on a writ of habeas corpus of the husky,

former New York policeman, County District Attorney Jesse Yancy Jr., said, "the case now rests in the hands of the federal court. However, the state contends McShane made unlawful acts and should be prosecuted in state court."

McShane was in charge of a team of some 300 federal marshals accompanying Meredith onto the campus.

In other developments: The Mississippi Senate approved a resolution which blamed rioting at the university on the "ruthless and corrupted administration in Washington headed by the Kennedy klan."

WALKER

(Continued From Page 1)

assured him Walker would be released on bail as any other citizen has the right to be. Kennedy was quoted as saying no examination of the ex-general could be made without a court hearing.

Alger told reporters he had telephoned the attorney general in view of his deep concern that Walker "has been sent to a mental hospital before having a court hearing."

Saying he "Admired Walker's 'anti-Communist work,'" Alger said he was concerned for his rights as he would be for any of his other Texas constituents.

Clyde J. Watts, spokesman for Walker's corps of attorneys, said they would ask a U. S. District Judge John W. Oliver, holding court here, for either a writ of habeas corpus freeing Walker or for an injunction against any surgical or medicinal treatment of the former general without the presence of a psychiatrist or physician approved by Walker's counsel.

Watts said he and two Springfield attorneys, George Donagan and William Wear, talked to Walker in the medical center Tuesday morning and found him "clear, lucid, undisturbed and possessing all his mental faculties."

Watts said they told Walker "that his response to questions asked by physicians or psychiatrists at the medical center should be only his name, rank and serial number—the same as an American soldier who has been captured."

Watts, reading from a four-page statement, told reporters he had talked to Judge Clayton at Oxford by telephone and was informed the order committing Walker for psychiatric examination was issued on the basis of testimony by Dr. Charles E. Smith, a Bureau of Prisons psychiatrist. Watts quoted Judge Clayton as saying Dr. Smith had not seen Walker. Watts said he had known Walker since boyhood and "I can assure the public of the United States he is completely sound mentally and physically."

Walker Version

Watts said that during their talk with Walker Tuesday morning, Walker gave them his version of what happened at Oxford. "He at no time led any assault, charge or overt act against any state or federal officer, including U. S. marshals," Watts said. "He at no time incited anyone to riot or disorder." Walker told his lawyers, Watts said, that he contacted the sheriff in Oxford Saturday and Sunday and advised him he was "there to observe developments."

U. S. Orders Mental Tests For Walker

MORN OCT. 3 1952

Former General's Attorneys Plan to Fight Court's Decision

SPRINGFIELD, Mo., Oct. 2 (AP)—Former Maj. Gen. Edwin A. Walker, a key figure in week-end battling over admission of a Negro to the University of Mississippi was ordered placed under psychiatric examination in a federal prison Tuesday.

His attorneys announced immediately they would fight the order Wednesday in U. S. District Court here. They instructed Walker to refuse to co-operate with prison physicians.

Walker was locked in the U. S. Medical Center here. He was brought from Oxford, Miss., in a U. S. Border Patrol plane Monday night after his arrest and arraignment on charges of inciting insurrection and seditious conspiracy.

U. S. District Attorney F. Russell Millin of Kansas City told reporters the psychiatric examination order was issued in Oxford Tuesday afternoon by U. S. District Judge Claude Clayton. Millin said it prevents Walker from obtaining his release under a \$100,000 bond set Monday at his arraignment.

Millin said he understood the psychiatric examination would take 60 to 90 days and that during that period Walker would not be bailable.

However, in Washington, Rep. Bruce Alger, Texas Republican, said Attorney General Robert F. Kennedy had

Turn to Walker on Page 2

Walker said he was eating dinner Sunday night during President Johnson's television speech to the nation when reporters advised him of a demonstration at the Ole Miss campus. He said he went there and found a "scene of considerable disturbance." He said he was standing near a Confederate monument about 300 yards from the administration building when several persons asked him to make a statement.

"General Walker made a statement that participants should avoid all semblance of violence—that the real war was in Cuba, not Mississippi," Watts said.

'No Missile'

The general told the lawyers his remarks lasted about five minutes, and that as he watched the students going toward the U. S. marshals and then moving back, he was no closer than 30 feet to the officers.

Watts said Walker had "no missile, weapons or rocks" and that "he counseled the participants to avoid violence."

Watts said he learned that Walker was transferred from Oxford to the Springfield Medical Center on telegraphed orders from James V. Bennett, director of the Bureau of Prisons.

The lawyer said the statement he read to reporters had been concurred in by another Walker attorney, Robert Morris of Dallas, former counsel for the House un-American activities committee. Morris was in Cleveland, Ohio, Tuesday but was expected to arrive in Springfield Tuesday night or Wednesday.

Watts said Walker is willing to submit to an examination by any court-approved psychiatrist to determine whether he is mentally competent to consult with his counsel.

The \$100,000 bail set for Walker was offered on the basis of Oklahoma sureties which were not otherwise identified. Mrs. George Walker of Center Point, Texas, wife of the general's rancher brother, told reporters in Houston that it had been raised from two sources — the family and others whom she did not identify.

PY

AR, NUMBER 245

LEGAL

ss for C

COURT REVERSAL ASKED ✓

MURKIN dated 10-17-62
Walker's attorneys said the U. S. attorney could call for a mental test only when he "can show reasonable ground for belief that a defendant may be presently insane or so mentally incompetent that he can not understand the proceedings against him or properly assist in his own defense."

In addition, Walker's attorneys also asked the court to strike from the record a telegram from James V. Bennett, director of federal prisons, to U. S. Atty. H. H. Ray at Oxford. The telegram concerned a memorandum from Charles E. Smith, chief psychiatrist of the federal prison bureau.

They charged the telegram "and all purported and assumed factual claims contained therein are redundant, immaterial, impertinent, scurrilous and scandalous, do great damage and prejudice to the defendant, maligns his mental capacity and violates every ethical and responsible standard of conduct."

They said Smith's memorandum "purportedly states or infers that Smith had read or heard some unidentified news reports and other unidentified information and based solely on this,

believed that defendant Walker's conduct is unpredictable and Walker is suffering from paranoia, psychosomatic disorders and other underlying disorders."

The motion was filed with the court here late Tuesday. There was no indication when any action might be taken on it.

In Dallas Tuesday, Dr. R. L. Stubblefield, the psychiatrist designated to examine Walker, said he would ask two other psychiatrists to help him determine how to go about it.

Dr. Stubblefield of the University of Texas' Southwestern Medical School was named as one psychiatrist. The government named Dr. Winfred Overholser of Washington as the other.

Dr. Overholser's name was withdrawn after protests by Walker's lawyers, who said Dr. Overholser has a history of tending to seek commitments.

He said he will consult Thursday with Dr. Andrew Watson, professor of psychiatry of the University of Michigan, and Dr. Titus Harris, retiring professor of psychiatry at the University of Texas.

Court Asked

To Reverse

MURKIN OCT 17 1962

Walker Order

OXFORD, Miss., Oct. 16 (AP)—Attorneys for former Maj. Gen. Edwin A. Walker asked a federal court Tuesday to reverse its order that he undergo a psychiatric examination.

U. S. District Judge Claude Clayton had directed that Walker, facing four federal charges including insurrection for his role in desegregation riots here Sept. 30, be examined to see if he is mentally competent to stand trial.

In a motion filed here Tuesday, Walker's attorneys charged that the court's order "violates the constitutional rights" of Walker in four ways.

It listed these as:

1. "The right to make bail and be released thereon.
2. "The right to be represented by counsel at every stage of the proceedings against him."
3. "The right to notice of proceedings against him, which is a necessary element of due process of law."
4. "The right to be present in person at the hearing wherein defendant's mental sanity and mental competency is questioned."

Walker, arrested here Oct. 1 and sent to the Springfield, Mo., federal medical center, was freed six days later on \$50,000 bond with the stipulation that he undergo the psychiatric examination.

A section of the motion by
Turn to Court Reversal on Page 2

DEFENDANT'S EXHIBIT 29

Walker Charges, Then Falls Back

Outsiders Take Part In Campus Rioting

By TOM GREGORY
Star Staff Writer

OXFORD, Miss. — Into the mob walked Edwin C. Walker, former major general of the United States Army.

Around him swirled a whirlpool of humanity and human emotion. Two hundred yards away, a line of gas-masked, club and tear gas-armed federal marshals had turned the ancient Lyceum building into a federal fort.

"Now we have a leader," screamed somebody. "Rally to General Walker!"

Walker, wearing a Texas hat and a dark blue suit, walked toward the Lyceum, with perhaps 200 men following him.

"Tear gas won't stop him," another person yelled. "Follow General Walker."

About 50 yards from the federal line, tear gas bombs began falling around the group.

General Edwin Walker (retired), who wouldn't retreat, did.

One of Many

The former Army officer was just one of the number of outsiders — how many will probably never be known — who egged and aided a hard core of Ole Miss students into a rock flinging, destructive riot that left two dead, 75 to 100 injured, at least 31 arrested and seriously damaged the reputation of a university.

I walked through that howling, passionately unthinking mob for more than four hours during the violence here last night. I saw

(Turn to Page 2, Column 1)

Walker Charges, Then Falls Back

(Continued From Page One)

the rock throwers and the agitators.

I stood under a Confederate flag hoisted on the flag pole before the stately Lyceum and watched students and outsiders rush the marshals' line, retreat before tear gas, regroup and charge again—all without any attempt at control.

Most of the rioters were students—although the number of the Missa men steadily decreased through the night. The number of outsiders — non-students—steadily increased.

Denim-trousered adults and teenagers from nearby towns furnished the impetus that kept the college boys at their job of injury and destruction.

One Reference to Meredith

"Do you think they'll leave that nigger here now?" a young student asked nobody in particular shortly after the riot began. In each hand he held a brick.

That was the only direct reference to Negro James Meredith I heard after the rioting began.

Earlier the crowd had attacked at least two newsmen and destroyed a number of cameras and tape recorders, but during the height of the riot, they practically ignored writers taking notes. No cameramen dared take a picture once the situation got out of control.

I wore no identification and was dressed in a short-sleeved white shirt and tie. I was never questioned. Late in the evening, there were so many non-students that nobody questioned anybody who did not have a camera or recorder.

Only a few of the students—I would estimate 200—actually participated in the violence and destruction.

There were incidents of violence almost as soon as the newsmen started arriving on the campus about 7 p.m. But then, almost without warning, the marshals began firing tear gas into the crowd.

After that it was a mad scene.

Walker Enters Scene

About an hour after rioting started General Walker entered the scene.

After his abortive attempt to reach the marshals' line, he confined his activity to speech-making and watching. A crowd gathered around him at the edge of the grove and he finally said, "All right, I'll speak to them."

Just prior to that, an Episcopal priest, Rev. Duncan Gray, Jr., had tried to talk him into leaving and taking the crowd with him.

"They'll follow you," Gray said.

But Walker stood at the foot of the old Confederate monument, and began speaking.

He told the crowd there had been a "sellout." He said a representative of the governor's office had told him that Gov. Ross Barnett's orders were not to let the marshals on the campus.

After an impromptu whispered conference with a blue-coated follower, Walker said, that a member of the Highway Patrol had been responsible for the sellout.

Again there was a conference and Walker said:

"The name is Birdsong."

Col. T. B. Birdsong is the head of the Highway Patrol and was in the car that led the first group of marshals to the campus during the afternoon.

Then, referring to the Episcopal priest who had asked him to leave:

"I am ashamed that I am an Episcopalian."

At this point Rev. Gray appeared in front of the crowd and was forceably taken from the area by men who feared that he would be injured.

Later a group of students attempted to arrange a truce, but were unable to make the deal (it was: no rocks, no tear gas) because of shouts from the crowd that had inched toward the building. Among the truce-triers were members of the Ole Miss football squad.

One of the shouters was a fat, middle aged man who quite obviously was not a student.

"No truce! No truce!" he shouted.

There was no truce. After a while the troops arrived.

[fol. 2080]

DEFENDANT'S EXHIBIT 30A

UPI A167 AJ

URGENT

5TH LEAD MEREDITH (A153)

BY AL KUETTNER

UNITED PRESS INTERNATIONAL

Oxford, Miss., Oct. 1 (UPI)—Negro James Meredith registered today at the University of Mississippi and began attending classes on a campus littered with the debris of a major riot that took two lives and injured at least 75 persons.

"It is not a happy occasion," he said.

About 400 U. S. Deputy Marshals and 1,000 Federal troops guarded the campus as the 29-year-old Negro cracked the segregation barriers of the 114-year-old school.

[Handwritten notation—Insert A26N]

The campus was brought under military control early today but the rioting spread to downtown Oxford and at least one soldier was hurt in a barrage of rocks, timbers and pop bottles before the crowd was dispersed with tear gas and reinforcements were brought in.

(MORE)—BU1110A10/1

UPI A168 AJ

1st add 5th lead Meredith (A167) Oxford X X X brought in.

Meredith, whose determination to desegregate "Ole Miss" brought about a conflict that threatened to rock the Federal Union, walked solemnly to an American Colonial History class at 9 A.M. CST to shouts of "Nigger, nigger" and "Was it worth two deaths?"

He was accompanied to the classes by three Deputy Marshals and U. S. Department of Justice representative Ed Guthman.

The Negro was met at the Registrar's Office by University Registrar Robert B. Ellis who handed him a stack of forms. The historic occasion was concluded quietly.

Meredith, who caught a whiff of the tear gas that clouded the campus early today, rubbed his eyes occasionally.

(MORE)—BU1113A10/1. .

[fol. 2081]

DEFENDANT'S EXHIBIT 30B

UPI A26N AJ

Insert 5th lead Meredith (A167) Oxford after 3rd PGH
X X X 114-year-old school.

The Justice Department announced today that Maj. Gen. Edwin Walker, resigned Army General who has become a vocal advocate of right-wing causes, has been arrested at a roadblock in Oxford and charged with a number of offenses, including inciting rebellion. Walker was seen during the riots egging the students on.

(PICKUP 4TH PGH: THE CAMPUS)

CB139PES. .

[fol. 2082]

DEFENDANT'S EXHIBIT 31

UPI A66

1st add Meredith. Oxvord (A65 XX More Violence.

Barnett ordered the State High Patrol yesterday not to attempt to stop the Federal Marshals. Both he and Kennedy advised the students not to resort to violence.

But that was not to be.

Shortly before 10 P.M. EDT, the word flashed around the campus that Meredith was there. And, even as Kennedy spoke, the riot began. A group of students threw lighted cigarets on the canvas top of a truck carrying U. S.

Marshals. The canvas caught fire and the Marshals, in steel helmets painted white and wearing orange vests with tear gas grenades, jumped out.

Then they fired the first barrage of tear gas at the students.

The murky white fumes rose and all but obscured the first floor of the main administration building. Students, screaming and yelling, bolted away to get out of the stinging gas. Some, tears streaming, went into a YMCA building and stood on chairs to listen to Kennedy on TV. Afterwards, many of them went back out and re-joined the violence.

Men were armed with brick bats, clubs and "Molotov cocktails"—beer and soft drink bottles filled with gasoline. One man struck a Federal Marshal in the leg with a two-foot iron pipe.

The Marshals loosed barrages of tear gas. The Mississippi State Highway Patrol, surrounding but not entering the campus, made no move. It had been ordered by Barnett not to hinder the Marshals but neither—apparently—did it have orders to help.

The riot grew even worse after Guihard and Gunter were killed. One group started an automobile full speed at a group of Marshals and jumped out. The car hit a tree.

Newsmen were beaten. Cameras were destroyed. Radio station sound trucks had their insides ripped out. Other cars were set afire.

One youth fired a fire extinguisher into the face of one of the drivers of the trucks used to bring in the Marshals. A State Highway Patrolman was struck in the face by a tear gas cartridge. A U. S. Marshal was shot in the neck.

Students were waving the Confederate flag during a lull in the rioting. Edwin A. Walker, former Army Major General who commanded troops at Little Rock, mounted a Confederate statue and advised the students to cease their violence.

"This is not the proper route to Cuba," Walker, who was [fol. 2083] wearing a big Texas hat, said.

The crowd jeered.

Later, Walker mounted the statue again and said:

"I want to compliment you all on the protest you make here tonight. You have a right to protest under the Constitution."

The battle swayed back and forth across the Ole Miss campus. The Federal Marshals appeared to hold the upper end of the campus around the Lyceum (Administration Building) and the demonstrators seemed to be in command of the lower end toward the entrance and surrounding the Confederate statue.

Lights were smashed, leaving the campus almost in total darkness.

The rioting had been going on for almost three hours when army troops put in their appearance at midnight. They were members of the Federalized Mississippi National Guard. They rolled into the campus in jeeps. There were about 200 of them.

One group of rioters had control of a fire engine and held back the Marshals with a steady stream of water which also tended to keep back the burning smoke of the tear gas.

It appeared at 3 A.M. EDT that the riot had been brought under control.

But then gunfire could be heard in the night. It was discovered a sniper with an automatic rifle had the Marshals pinned down and was taking potshots at the cars and men in front of the Lyceum.

The sniper also had National Guardsmen scurrying for cover. He fired repeatedly and the men took refuge behind trees and buildings.

The rioters barricaded University Avenue directly in front of the monument of the Confederate soldier. The barricade was about three feet high and three or four feet wide, built of lumber taken from a nearby construction project.

The Marshals were eagerly awaiting the arrival of the additional army forces. One regular unit, the 2nd battle group, 23rd Infantry, comprising about 1,100-men in 175-200 vehicles was rolling to Oxford from Fort Benning, Ga.

Two MP outfits were flown in by helicopter from a base at Memphis and additional units of the Mississippi National Guard were summoned.

MORE WN525AED

[fol. 2085]

IN THE DISTRICT COURT OF TARRANT COUNTY, TEXAS

17TH JUDICIAL DISTRICT

No. 31,741-C

EDWIN A. WALKER

VS.

ASSOCIATED PRESS

**Transcript of Hearing on Motion for New Trial—
September 18, 1964**

Be It Remembered that upon the hearing of the defendant on Motion for New Trial, before His Honor Charles J. Murray, Judge of said court, on the 18th day of September, A. D. 1964, the following proceedings were had and evidence adduced:

APPEARANCES:

Mr. Clyde A. Watts, 219 Couch Building, Oklahoma City, Oklahoma.

Mr. Toy Crocker, Continental Life Building, Fort Worth, Texas.

Mr. William Andress, Jr., 627 Fidelity Union Life Bldg., Dallas, Texas.

Attorneys for Plaintiff.

Mr. Sloan B. Blair, Mr. Daniel Settle, Mr. J. A. Gooch, First National Bank Building, Fort Worth, Texas.

Attorneys for Defendant.

[fol. 2086] Mr. Address: If the Court please, we have filed some exceptions to that amended motion for new trial insofar as the calling of jurors is concerned.

The Court: All right. Do you want to be heard on it?

Mr. Address: Yes, sir, we would like to be heard because we don't believe they have set forth in their motion with sufficient certainty and definiteness the basis for calling the jurors in here and bringing them back in that the motion that they have filed here does not set forth the names of any of the jurors who are supposed to have made the statements nor do they allege sufficiently that any such statements would have prejudiced their rights so as to be prejudicial jury misconduct under the rules. Now those are the holdings of such cases as Federal Underwriter's Exchange vs Skinner and Roy Jones Lumber Company vs Murphy, and Thompson vs. The Railway Express Agency, and Smith vs Houston Transit Company, so we don't feel that they have set forth with sufficient certainty and definiteness what it is they propose to prove.

The Court: I am going to overrule you, counsel. I have already spent a substantial amount of time looking into this case, and if any of you haven't read it yet there is a very good law review by Associate Justice Jack Pope in [2087] 40 Texas Law Review 849 in which he reviews the problems involved in jury misconduct.

Now before we start I am going to tell you first of all what I am not going to hear as far as any of the jurors are concerned. As I understand Texas law we can only go into overt acts of the jurors and not their mental processes, so therefore a juror will not be permitted to testify that he was not influenced by any statement; he will not be permitted to testify that he was influenced by any statement. The Courts have held that goes into mental process. Moreover, a juror will not be permitted to say that he felt, he believed, he meant, he aimed, he desired, he was convinced, he was not convinced, nor may he give his impressions of any sort. I will only go into what was said, at what point it was said, and what, if anything, the jurors as a whole did after that point.

Mr. Gooch: We concede that those are the rules.

The Court: All right.

MR. M. L. MERIWEATHER, called as a witness by the defendant, being first duly sworn to testify the truth, the whole truth, and nothing but the truth, testified as follows:

Direct examination.

By Mr. Gooch:

[fol. 2088] Q. Please state your name.

A. M. L. Meriweather.

Q. Where do you live, Mr. Meriweather?

A. 300 Emma street, Forth Worth, Texas.

Q. Were you a juror in the case of General Edwin A. Walker versus the Associated Press that was tried in June of 1964 in this court-room?

A. Yes, sir.

Q. Did you participate as a juror in the hearing of the evidence and the deliberations after the evidence was closed?

A. Yes, sir.

Q. I will ask you if during the deliberations and prior to the time that a verdict was reached in this case that there were any statements made by any jurors, while all the jurors were together and prior to the time the verdict was reached, as to whether or not prejudice was indicated against the news media in general.

Mr. Address: Now wait just a minute. That is calling for a conclusion.

The Court: Sustained.

By Mr. Gooch:

Q. Were you acquainted with a man by the name of Waverly Johnson who was foreman of the jury?

A. Yes, sir.

Q. A man by the name of Trotter who was a juror in the case?

[fol. 2089] A. Yes, sir.

Q. Would you tell the Court what, if anything, was said by those gentlemen relative to the news media in general?

A. Well one of them made the statement that the Associated Press was always hurting someone and something on that order, printing false statements.

Q. Was there anything said about news media in general?

A. There was a statement made by one of them, I don't recall which one,—Now this is about the Press itself?

Q. That's right. About news media is the question I asked.

Mr. Address: If the Court please, we don't believe news media would be pertinent. We think it is what was said about Associated Press.

The Court: Overruled.

By Mr. Gooch:

Q. You have executed an affidavit in this case have you not, Mr. Meriweather?

A. Yes, sir.

Mr. Address: If the Court please, the affidavits are not admissible, not even for refreshing his memory, and we are going to object to his re-reading his affidavit at the present moment.

The Court: Overruled.

A. You are referring to this one here?

The Court: Mr. Meriweather, if you say anything at all [fol. 2090] to Mr. Gooch you have to say it loud enough for the court reporter and counsel to hear it.

Mr. Gooch: That's right.

The Court: Now all he has done so far is just hand you the affidavit. He hasn't asked you any further question.

A. Well, now, of course.

The Court: He hasn't asked you a question.

By Mr. Gooch:

Q. Have you re-read your affidavit that you gave in this case?

A. Yes, sir.

Q. Were the matters set forth in that affidavit true and correct to the best of your knowledge and belief at the time you executed it?

A. Yes, sir.

Q. Now in that affidavit you state "One juror stated that news services were always publishing false and malicious reports".

A. Yes, sir.

Q. Was that statement made in the jury-room when all jurors were present prior to the time a verdict was reached?

A. Yes, sir.

Q. Was there anything said in the jury-room and prior to the time the verdict was reached, when all jurors were present about money?

[fol. 2091] A. Yes, sir.

Q. What was that?

A. One of the jurors stated that he should be awarded the full amount because the Associated Press had plenty of money.

Q. Do you remember what juror said that?

A. I don't recall his name, but he was the same fellow that works out there with me, a tall slim fellow.

Q. Was his name Trotter?

A. I believe it was, sir.

Q. Was anything said to this effect, that the Associated Press had plenty of money and would never miss it?

A. Yes, sir.

Q. Was that prior to the time the verdict was reached?

A. It was before, yes, sir.

Q. Was there anything said about a Georgia Football coach having received a substantial award and damages for libel?

A. Yes, sir. They made a statement that one of the coaches received the full amount on a libel suit.

Q. Was that statement made before the verdict was reached?

A. Yes, sir.

Q. Do you recall any statement made by a man by the name of Johnson, who was the foreman, as to his antagonism or non-antagonism toward the Associated Press?

Mr. Address: That is a conclusion, Your Honor.

The Court: It would be, Mr. Gooch.

[fol. 2092] Q. State what, if anything, Mr. Johnson said about the Associated Press, if you recall.

A. Well, he didn't say a whole lot, he just kind of left the impression that he was—

The Court: Wait just a minute. I will strike that.

Mr. Gooch: All you can do is say what he said. If you recall.

A. Well I don't recall his exact words, Mr. Gooch.

Q. Can you give the substance of what he said?

A. Well it was something on the order that the Press was always—hurt people and printing false statements. Something on that order.

Mr. Gooch: That's all.

Cross examination.

By Mr. Address:

Q. Mr. Meriweather, when did the jury go out and start its deliberations? What time of day?

A. Well I don't recall. Whenever the trial was over.

Q. Was it in the afternoon of one day or the morning of the day you brought in the verdict?

A. It was in the afternoon.

Q. And that afternoon you elected a foreman?

A. Yes, sir.

Q. You elected Waverly Johnson as the foreman. Is that right?

[fol. 2093] A. Yes, sir.

Q. Now how long was it after you started your deliberations that anybody said anything about the Associated Press always hurting someone and printing false statements?

A. Oh, I would say within about thirty minutes.

Q. Within about thirty minutes?

A. Uh huh.

Q. And who was it that said that?

A. The foreman, Johnson.

Q. Now the foreman, was he sitting at the head of the table?

A. No, sir.

Q. Where was he sitting?

A. He was sitting over on this side.

Q. Over on this side? Let's see, toward the window or away from the window?

A. Towards the door.

Q. Towards the door. And where were you sitting?

A. I was sitting next to him, on the east side of him.

Q. Were you and he talking together when he made that remark?

A. No, sir.

Q. Who did he make the remark to?

A. Just the jury as a bunch.

Q. What did any of the other jurors then say or so?

A. Well, like Mr. Gooch asked me, there was one of them [fol. 2094] made the statement the Associated Press had plenty of money.

Q. That was right after Mr. Johnson said that the Associated Press was always hurting someone with false stories and then somebody in reply to that said the Associated Press had plenty of money?

A. No, sir, it wasn't after that.

Q. Was it before that?

A. It was when they voted on malice and they started voting on how much money.

Q. At that time had a vote been taken on the amount of money?

A. No, sir.

Q. Now when the vote was taken on the amount of money did everybody speak up and say what they thought was the proper amount of money?

A. Everyone but me.

Q. Everyone but you. You didn't express any view on the amount of money?

A. Well I didn't agree on it.

Q. You mean in the discussion you didn't agree on the amount?

A. Yes, sir.

Q. At the time that this discussion began did everyone else agree on the \$500,000?

A. On the first count, yes, sir.

[fol. 2095] Q. Now was it before or after that that this remark was made about the Associated Press having plenty of money?

A. It was after that.

Q. After that?

A. Uh huh.

Q. In other words it wasn't until after eleven jurors had voted in favor of \$500,000.00 as actual damages that somebody said the Associated Press had plenty of money?

A. That's right, and award the full amount.

Q. Of course the full amount asked for for a million dollars.

A. Yes, sir.

Q. And the eleven jurors had already decided not to award the full amount but to award the figure they had arrived at.

A. Well we hadn't got into the malice part yet.

Q. But I mean the \$500,000.00.

A. Yes, sir.

Q. Now do you know of anybody that actually heard, other than yourself, what Mr. Johnson said about the Associated Press hurting someone, printing false statements?

A. I am sure that all the jurors did.

Q. Did anybody make a comment about it at the time?

A. I think not, sir.

Q. Nobody made any comment at all.

A. No, sir.

Q. The matter wasn't discussed any further?

[fol. 2096] A. No, sir.

Q. So that it was simply a comment made by Mr. Waverly Johnson that was not picked up and didn't become a discussion and wasn't talked about any further.

A. Not that particular one. The other one was discussed quite a bit.

Q. Which one?

A. The one about the Press having quite a bit of money. I stopped that because I told them it didn't make any difference how much money the Press had and in the first place they didn't know how much they had, and I thought it was out of order, and that's when said "Meriweather's right, let's drop it".

Q. And you told them the jury should not consider that, that it was outside the record and shouldn't be considered. Is that right?

A. That's right.

Q. And then was it dropped?

A. Yes, sir.

Q. And all of that took place after eleven jurors had already voted for \$500,000.00.

A. On the five hundred, yes, sir.

Q. Now when Mr. Waverly Johnson made the remark about the Associated Press always hurting somebody did anybody speak up then like you very properly did a little later on to say, "Well we musn't consider that. That's not to be considered"?

[fol. 2097] A. I didn't say a thing.

Q. Did anybody else speak up and say that?

A. Not that I recall.

Q. In other words that was a remark that was made and they just let it lay. Nobody did anything further about it at all.

A. I don't think there was any further discussion on it, no, sir.

Q. Do you remember who it was that mentioned something about the Georgia Football coach collecting?

A. No, I don't recall which one it was, which one of the jurors.

Q. Do you remember at what stage of the game that happened?

A. That happened when we were voting on the malice part.

Q. When you were voting on the malice part?

A. Uh huh.

Q. Did you take these issues in order and work through them?

A. Yes, sir.

Q. And so the malice part would be one of the very last things you did wouldn't it?

A. Yes, sir.

Q. It wasn't until you got to the malice part that the mention was ever made about the Georgia Football coach.

A. The best I recall I made some statement myself that a libel suit was hardly ever awarded the full amount, and that's when this come in. One of the jurors said "Well the [fol. 2098] football coach was awarded the full amount".

Q. Well, of course, that had been a matter that was about as well spread in the public press as the incident over in Mississippi, wasn't it? I mean all of you knew about that didn't you?

A. I suppose so, yes, sir.

Q. Was there any further comment or discussion about it?

A. Not that I recall.

Q. That was just one of the things that anybody that reads the papers knew something about and nobody paid any attention to it then?

A. I guess so.

Mr. Gooch: We object to that last question and the answer that nobody paid any attention to it.

The Court: Yes, it is sustained. This juror may not testify as to whether someone did or did not pay any attention to it.

By Mr. Address:

Q. Let me ask you another question if I may, Mr. Meriweather. When this remark was made about the Georgia Football coach in reply to the remark that you made, was there any further discussion about it?

A. Oh, I don't think there was any long discussion. There may have been a few words said here and there, something on that order.

[fol. 2099] Q. Just a casual remark as you discussed things in the jury?

A. Yes.

Mr. Gooch: We object to the "casual remark".

The Court: Sustained. Just give it in the context in which it occurred.

A. Well, that's about how it happened.

Mr. Address: That's all.

MR. WM. J. MARTIN TARTER called as a witness by the defendant, being first duly sworn to testify the truth, the whole truth, and nothing but the truth, testified as follows:

Direct examination.

By Mr. Gooch:

Q. Please state your name.

A. William J. Martin Tarter.

Q. Where do you live, Mr. Tarter?

A. Route one, Keller.

Q. And were you one of the jurors in the case of General Edwin A. Walker versus the Associated Press that was tried in this court in June of 1964?

A. Yes, sir.

Q. Have you executed an affidavit in connection with this case, Mr. Tarter?

A. Yes, sir. I know what it says.

Mr. Address: We have the same objection to the
[fol. 2100] The Court: Same ruling.

By Mr. Gooch:

Q. Would you like to refresh your memory with it?

A. No, sir, I know what it says.

Q. All right. Now do you recall that the jury spent some several hours in deliberations before a verdict was reached?

A. About two hours I believe.

Q. Now prior to the time the jury reached its verdict and brought it into open court—

After you got into the jury room I assume that you elected a foreman. Is that correct?

A. That's right.

Q. Then did a general discussion of the case take place?

A. Yes, sir.

Q. Prior to answering any issues in the case was there some discussion in the jury-room?

A. Yes, sir, the whole case was debated in general.

Q. That's prior to the time you answered any issues?

A. Yes, sir.

Q. Was there anything said by anybody, and name if you can, as to whether or not news media in the past had been guilty of irresponsible and malicious reporting?

Mr. Watts: Objected to as leading.

The Court: Sustained.

By Mr. Gooch:

[fol. 2101] Q. Please state whether or not there was anything said about the news media in general prior to the time you voted on the issues and prior to the time you brought in a verdict.

A. Yes, sir, there was.

Q. What was that?

A. Well it was said I believe—excuse me for saying I believe— It was said that the news media had been malicious in their reporting in the past in some cases.

Q. All right. Was that prior to the time you started voting on the issues?

A. Yes, sir, I believe it was.

Q. Was it said prior to the time that the verdict was actually brought into open court?

A. Would you please rephrase that?

Q. Was that said prior to the time the verdict was actually brought into court—before you were discharged?

A. Yes, sir.

Q. Now, do you know which juror made the statement that you have just attributed to him?

A. No, sir, I don't. I don't recall.

Q. Do you recall that a man by the name of Johnson was foreman?

A. Yes, sir, he was.

Q. Do you recall whether or not he made that statement?

Mr. Watts: We object to that as leading and suggestive, [fol. 2102] putting the words in the witness' mouth.

The Court: Sustained.

By Mr. Gooch:

Q. Do you now recollect as to who might have made the statement that you have mentioned?

A. No, sir, I can't.

Q. Do you know how many of such jurors might have made the statement that you have attributed to the irresponsibility and malicious reporting.

Mr. Address: We object to how many might have; we want to know how many did.

The Court: I sustain the objection in that form.

By Mr. Gooch:

Q. Do you know how many?

A. Sir, everyone has an opinion on that subject.

The Court: That isn't what he asked you. He asked you how many expressed that opinion in the jury-room.

A. No, sir, I couldn't give you an exact number. There were several of us.

Q. Were you one of them?

A. Yes, sir, I was.

Mr. Gooch: That's all. Thank you.

Cross examination.

By Mr. Address:

Q. Mr. Trotter, was there any continued discussion of [fol. 2103] anything of that sort with respect to the Associated Press itself?

A. No, sir, there wasn't.

Q. In other words it was a general conversation rather than one directed to the Associated Press?

A. That's right.

Q. Now when you came to pass upon the issues here so far as you were aware was anything considered other than the evidence that had been heard from the witness stand?

Mr. Gooch: If the Court please, we object to that.

The Court: You may not answer that question. That's going into his mental processes.

Mr. Address: I think we can find some law in connection with that, Judge.

Q. I believe, Mr. Trotter, I am correct. This is the first time you had served on a jury isn't it?

A. That's right.

Q. At any time when any of this conversation about the news media generally was under discussion did anyone say that, well you weren't interested in news media generally but in the Associated Press and you ought not to consider what the news media generally might or might not do?

A. I don't recall, sir.

Q. Do you have any idea how many people may have heard this remark that was made about news media being malicious in the past?

[fol. 2104] A. Everyone I imagine.

Q. Now in connection with the issues and the answering of the issues was there any sharp split in the jury or were they pretty well together the first time you took a ballot on the issues?

Mr. Gooch: We object to that as mental processes.

The Court: Re-read the question, Mr. Nüss, please.

(Whereupon the question was read)

The Court: Sustained in that form.

By Mr. Address:

Q. All right. Now, Mr. Trotter, do you remember what the vote was the first time that you took a vote on the first special issue about whether or not—as to whether or not General Walker led a charge?

A. Yes, sir, I do. It was ten for Walker and Meriweather voted against and there was one person who didn't vote.

Q. All right. Now on special issue No. two as to whether that statement that Walker led a charge constituted fair comment was the vote about the same?

A. Now as I recall the question it was ten and one didn't vote, one of them.

Q. Would you say the first time the votes were taken that

they generally ran ten in favor of the way you finally answered the issues on the first ballot on each one of them?

Mr. Gooch; We object to that if the Court please as [fol. 2105] improper.

The Court: Overruled.

A. On about the third statement there you know on the paper it changed to eleven to one, and on the fifth I believe now that it changed to eleven and Meriweather quit voting.

By Mr. Address:

Q. And it went that way all the way through?

A. Throughout the first reading of it.

Q. Now you didn't hear any comment about you ought to give a million dollars because the Associated Press had plenty of money, did you?

A. The statement was brought up I believe that the Associated Press had a lot of money but at that time I don't believe that the million dollars had been brought up in that statement.

Q. Was that after you had already voted on the \$500,000.00 total one time like Mr. Meriweather remembered it?

A. I believe it had, sir.

Q. Did you hear any statement about the Georgia Football coach?

A. Sir, I am real sure that the Butts case was never discussed. Let me say something, I brought up now that in Germany there was a German news media, I believe now, I am not sure which one, or now that it was German, but they reported in the Spring I believe that Khrushchev had been killed, you know, if you recall that, but the Butts case I don't ever recall being discussed.

[fol. 2106] Q. Things like that were matters of pretty common knowledge in a discussion?

A. Yes, sir, it is.

Mr. Gooch: If the Court please, we object to that as improper examination.

The Court: Sustained.

Mr. Address: That's all.

Mr. Gooch: That's all, thank you.

MR. R. A. HOBSON, called as a witness by the defendant, being first duly sworn to testify the truth, the whole truth, and nothing but the truth, testified as follows:

Direct examination.

By Mr. Gooch:

Q. Please state your name.

A. R. A. Hobson.

Q. Where do you live, Mr. Hobson?

A. 1401 Boyce.

Q. Were you one of the jurors in the case of General Walker versus the Associated Press that was tried in this court-room in June of 1964?

A. I was.

Q. You have been in the court-room while Mr. Meriweather and Mr. Tarter have testified, have you not?

[fol. 2107] A. Yes, sir.

Q. Did you hear any statements made in the jury-room, and if so please state when, if you heard them, regarding the news media in general?

A. I don't recall just what was said at that time.

Q. Was there something said about the news media?

A. Well in the general discussion there was something said but I don't recall just what.

Q. Was there anything said about the news media had been guilty of false and malicious—

Mr. Watts: We object to that, Judge.

Mr. Gooch: Let me finish the question.

Mr. Watts: The damage is done. Regardless of starting out to lead the witness we object to even finishing the inquiry.

The Court: I think so, counsel.

By Mr. Gooch:

Q. Can you recall anything that was said about the news media in general?

A. Nothing more than that sometimes they had been at fault.

The Court: Sometimes what?

A. Had been at fault in printing falsified news.

By Mr. Gooch:

Q. Was there anything said concerning the amount of money that was to be awarded, concerning the ability of the [fol. 2108] Associated Press to pay?

A. Well, of course, when we started talking about the amount that we had to give him, of course that had to be discussed. We couldn't all agree on the same amount the first go round.

Q. Was there any discussion as to whether or not the Associated Press had a lot of money?

Mr. Watts: We object to it as leading and suggestive and putting words in the witness's mouth.

The Court: Sustained.

By Mr. Gooch:

Q. Do you recall anything further about, that might have been said about the Associated Press' financial statement, or financial affairs?

A. Oh, nothing more than that the Associated Press probably had a lot of money.

Q. Now I will ask you whether or not there was any discussion as to what a large verdict against the Associated Press might do toward the news media in general.

Mr. Andress: We object to that, Your Honor, as being leading and suggestive.

The Court: Overruled.

Mr. Andress: It certainly goes into mental processes, a discussion of what the effect of it would be.

The Court: Read it to me again, Mr. Nuss.

(Whereupon the question was read)

[fol. 2109] The Court: Overruled.

A. I don't recall that any such statement was made.

By Mr. Gooch:

Q. Do you recall having discussed this matter with Mr. Settle and Mr. Blair shortly after the jury was discharged?

A. Oh, we exchanged a few words. I don't remember what was said.

Q. I will ask you if you made this statement at that time:

Mr. Andress: Just a minute. We object to his attempting any kind of statement in impeachment of what he is now testifying without laying the proper predicate.

The Court: Overruled.

By Mr. Gooch:

Q. "That a high award as damages in this case would act as a deterrent to false reporting by the entire Press in the future". Do you remember making that statement?

A. I don't recall.

Q. Would you say you did or didn't?

A. I still don't recall whether I did or not.

Q. Was anything like that said in the jury-room prior to the time the verdict was reached?

A. If it was I don't remember.

Mr. Andress: Now if the Court please, we are going to object to this line of questioning because this is in strict accordance with the charge of the Court defining what is [fol. 2110] meant by punitive damages to act as a deterrent, and we think that any such discussion, if it took place, is a perfectly proper discussion under the Court's charge.

The Court: It may be, counsel, but I have to hear it before I can determine that.

Mr. Gooch: I believe that an answer to that would be chronological.

The Court: I am going to let you go on into it.

By Mr. Gooch:

Q. Now the statements that you have recalled and testified here to as having recalled, were those statements made prior to the time the jury reached its verdict and brought it into open court?

A. Well, of course, it would have to have been before we reached a verdict.

Q. Was it also before any of the issues had been answered?

A. No, it was just during the process of reaching a verdict.

Mr. Gooch: That's all.

Cross examination.

By Mr. Address:

Q. Mr. Hobson, this business about the Associated Press probably had a lot of money, was there any extended discussion on that?

A. No.

Q. Was that after you had already taken a vote on the [fol. 2111] amount and eleven people had voted on the amount of \$500,000.00? Like Mr. Meriweather remembered it?

Mr. Gooch: Now, we object to comparing one witness' testimony with another.

The Court: Sustained. Just ask him what he recalls.

Mr. Address: What we asked him is whether he heard the testimony of these other witnesses.

The Court: I heard it, and I sustain his objection.

A. Now what was the question?

By Mr. Address:

Q. Was there any such discussion here about the A. P. having a lot of money after you had already taken one vote on the amount of money to be awarded?

A. Well I think it was, yes.

Mr. Address: That's all.

Mr. Gooch: That's all. Thank you.

MRS. I. A. SMITH, called as a witness by the defendant, being first duly sworn to testify the truth, the whole truth, and nothing but the truth, testified as follows:

Direct examination.

By Mr. Gooch:

Q. Mrs. Smith, please state your name?

A. Mrs. I. A. Smith.

Q. And your address please.

[fol. 2112] A. 3537. Ruth Road.

Q. Were you one of the jurors in the case of General Walker versus the Associated Press tried in this court-room in June of 1964?

A. Yes.

Q. Do you recall taking part in the deliberations leading to the verdict?

A. I recall doing it, yes.

Q. Did you hear any reference to the news media in general by word of mouth from any other jurors prior to the time you answered the questions and prior to the time you brought the verdict into the court-room?

Mr. Watts: Your Honor, we object to that as leading. He can ask her what she heard and when she heard it.

Mr. Address: I don't think he can fix the time.

The Court: No, I don't think so, Mr. Gooch. You have asked three questions in one.

Mr. Gooch: The Court has sustained the objection so I will start over, Mrs. Smith.

Q. Do you recall a discussion at any time during the deliberations of the jury concerning news media in general?

A. Yes, I believe there was some discussion.

Q. Will you please tell us what it was?

A. That the news media had been in error in reporting news.

Q. Do you remember when with reference to answering [fol. 2113] the questions that statement was made?

A. No, I don't.

Q. Was it before the verdict was brought in to the Court? Was it during the jury's deliberations is what I am trying to ask.

A. Yes, I believe it was.

Q. Do you remember at what part of the deliberations that statement was made?

A. No, Mr. Gooch, I don't.

Q. Do you remember whether it was before or after you had answered any of the issues?

A. No, I don't recall.

Mr. Gooch: That's all.

Cross examination.

By Mr. Address:

Q. Mrs. Smith was there any discussion about the Associated Press in particular or was it just news media in general?

A. There was discussion of A. P. and news media.

Q. That included the radio, television, newspapers, magazines and just everything. Is that right?

A. Yes, I believe so.

Q. Was there any extended discussion at that time?

A. No.

Q. Do you remember who made any remarks about it?

A. No, I'm sorry I don't.

[fol. 2114] Q. Would you say it was one person or more than one?

A. I would say it was more than one.

Q. Would you say it was just a remark and a reply and then it passed off?

A. Yes, more like small talk.

Mr. Address: That's all.

Mr. Gooch: No further questions.

MRS. T. E. TOMLINSON called as a witness by the defendant, being first duly sworn to testify the truth, the whole truth, and nothing but the truth, testified as follows:

Direct examination.

By Mr. Gooch:

Q. Please state your name and address, Mrs. Tomlinson?

A. My name is Mrs. T. E. Tomlinson.

Q. And your address please, ma'am?

A. 4001 Pershing.

Q. Were you one of the jurors in the case of General Walker versus the Associated Press that was tried in this court-room in June of 1964?

A. Yes, I was.

Q. Mrs. Tomlinson, did you hear any discussion in the jury-room at any time prior to the jury returned its verdict concerning news media in general?

A. Yes.

[fol. 2115] Q. Could you tell the Court what that discussion was?

A. Well it was just a general discussion of different medias.

Q. What was said, please, ma'am?

A. I don't recall just what was said.

Q. Was there anything said, any discussion about news media making false reports?

Mr. Watts: We object to it as leading and suggestive.

The Court: Sustained.

By Mr. Gooch:

Q. Do you recall anything that might have been said about the news media in general?

A. No, sir.

Q. Mrs. Tomlinson, I am not trying to trip you but do you recall talking to Mr. Blair and Mr. Settle shortly after the jury returned its verdict in this case?

A. Yes, I do.

Q. Do you remember stating to them in substance—

Mr. Address: If the Court please, we are going to object to asking this lady what she said at some prior date to somebody not under oath. The question is what took place that she testifies to under oath, and we object to this form of interrogation.

The Court: Overruled.

[fol. 2116] Mr. Address: May it go to the entire line?

The Court: No, just to this question.

By Mr. Gooch:

Q. Did you make this statement: "That because of the false and erroneous reporting of the news media in general in the past that the Associated Press had two strikes against it to begin with"?

A. I don't recall saying that.

Q. Would you say you did or didn't?

A. I didn't say that.

Q. But there was some discussion in the jury room of news media in general. Is that correct?

A. Yes.

Mr. Watts: We object to that as repetition.

The Court: I will let her go ahead and answer that.

By Mr. Gooch:

Q. Can you give the substance of it in any particular?

A. Of what, Mr. Gooch?

Q. Of what was said about the news media.

A. In the jury-room?

Q. Yes, ma'am.

A. Well it was discussed that A. P. and other forms of news media was at fault at times.

Mr. Gooch: That's all. Thank you.

Cross examination.

[fol. 2117]

By Mr. Address:

Q. Mrs. Tomlinson, was that discussion after you had voted on these first issues? In other words after the jury had already voted about all the issues except money?

A. Mr. Address, I don't recall whether it was before. I presume it was before though.

Q. That's all you recall about the conversation?

A. Yes.

Q. And was it any extended discussion or just passing remarks?

A. Just passing remarks.

Mr. Address: That's all.

Mr. Gooch: That's all. That's all we have, Your Honor, on that feature.

The Court: All right. Does the plaintiff have anything so far as jurors are concerned?

Mr. Address: No, sir.

COLLOQUY BETWEEN COURT AND COUNSEL

Mr. Gooch: We are not waiving any of the questions. The Court's attention is called specifically that most of the other objections or grounds for motion for new trial are based on the written record and the objections and exceptions to the Court's charge as the Court probably has noted. We have urged a complaint here to a portion of the evidence, and I believe the Court will recall that none of the witnesses were allowed to testify concerning the word [fol. 2118] "charge". General Walker, when he was on the stand, over our objection, was allowed by the Court to testify that he did not lead a charge and answered that question specifically.

The Court: Mr. Gooch, let me ask you this question: Don't you think that General Walker had, as part of his case, to deny that the story was true?

Mr. Gooch: No, I don't think so for the purpose of this argument, because you had not allowed any other witness to use the word "charge", and you did comment to the jury, Your Honor, "Mr. Gooch, I will allow this witness to answer that question with the word charge in it", which I believe was a comment in that you allowed this witness to use the word charge in connection with his testimony.

The Court: Did I use the word charge in my statement to you or did I just say, "I will permit this witness to answer that question"?

Mr. Gooch: I can't be specific now whether it was or not but I had an objection to him answering the question, the specific question, as to whether or not he led a charge. You said, "Mr. Gooch, I will allow this witness to answer that question". Whether or not you used the word charge in overruling my objection I can't be positive. I would have to look at the record, but you did say, "Mr. Gooch, I will [fol. 2119] allow this witness to answer that question", and complaint is made. No disrespect to the court.

The Court: I understand.

Mr. Gooch: But people raise these objections and lots of times the Court in the heat of the battle has made mistakes. Not this Court, but some courts have. But I don't want to take that as a waiver of the assignment of error.

Then the next thing we present is the unconscionable amount of this verdict. General Walker testified that his popularity had not waned, that he was still getting just as many calls to make speeches as he ever had. It's true that one witness testified that after having said on two or three occasions that the news report of General Walker including his insanity hearing and so on and so forth had damaged his character finally confined it and said that General Walker's reputation had been damaged in a particular area in Texas.

The Court: You say you are raising the question about excessiveness of the verdict?

Mr. Gooch: Yes, sir.

The Court: What part in your motion?

Mr. Gooch: It's in there about seven or eight times.

The Court: You don't ask for a remittitur do you?

[fol. 2120] Mr. Gooch: I believe under the rules, if the Court please, we are not required to ask for a remittitur. We raise the question of excessiveness because that's in the hands of the Court.

Mr. Address: Only in connection with jury misconduct, Judge; I don't see anywhere else.

The Court: Let me hear from Mr. Gooch first, and then I will hear from you, Mr. Address. I didn't find it when I read it over.

Mr. Gooch: "Damages found by the jury in answer to special issue No. nine, to-wit, the sum of \$500,000.00 is so grossly excessive as to be manifestly wrong and unjust, and to show that the jury disregarded the evidence and was influenced by passion, prejudice and other improper motives," which is in the language of rule 328, paragraph J, under 10, and it's in there another three or four times. Maybe be considered that each and every point as raised in our amended motion for new trial has been presented?

The Court: Yes, sir.

Mr. Gooch: That's all.

The Court: I will tell you first, Mr. Address, I am not going to rule today. I want to give you time, both of you, to prepare briefs so far as this jury misconduct is concerned.

[fol. 2121] Mr. Address: Judge, there is a long motion there which has been presented in gross. There is no earthly use in taking up your time unless there is some particular thing.

The Court: The only thing I want the brief on is jury misconduct.

Mr. Address: We also want to direct to your attention that we have here a motion to reform the judgment to give us back our exemplary damages.

The Court: Which is now overruled.

Mr. Address: You will note our exception and in any order exception and notice of appeal.

The Court: I have already passed on that once.

Mr. Address: Yes, sure you have, but I am not giving up on it.

The Court: Yes, I understand.

Mr. Address: Your Honor, there is nothing in particular to reply to then so far as counsel are concerned and so far as this motion for new trial is concerned. Of course the permission of General Walker to testify to a charge the Court's point I think was well taken that it was necessary for the defendant who is charged with it to so speak. Furthermore he was the only person on the witness stand who, as a qualified expert from his long military career could testify to whether he did or did not lead a charge. He was [fol. 2122] an expert and the others weren't.

We will submit a brief.

The Court: All right, now, I would like to have it if it's possible by September 28th. Will that give you enough time?

Mr. Address: That's ample time.

The Court: That's a non-jury week and I will have more time.

Mr. Address: How do you want that handled? Do you want a brief from him and a reply brief from us, or just what do you want?

The Court: Do you want to submit anything, Mr. Gooch?

Mr. Gooch: We will submit you a brief.

The Court: All right. You submit one and send it to Mr. Address as soon as you can, and you can reply to that, but I would like to have them both by the 28th if possible.

Mr. Address: All right.

Mr. Gooch: All right, sir.

The Court: Now how much time has expired and how much more time do I have? Have you checked that Mr. Blair?

Mr. Blair: This motion was filed, Your Honor, on August 31st which means that we have 45 days from that [fol. 2123] date as I understand it.

The Court: Well you have 15 days after it is presented don't you?

Mr. Blair: Yes, sir.

The Court: Well it's presented today.

Mr. Address: So far as I am concerned if the Court wants additional time I am perfectly willing to extend it.

Mr. Gooch: You can't extend it.

Mr. Address: We can do this, we can argue this thing and present it on the 30th of September officially and then give you 15 days.

The Court: I can make a decision within 15 days if I can get your briefs by the 28th, both of them.

Mr. Watts: If Your Honor please, since this is the last appearance in person we will have in the court I would like to have about 30 seconds.

The Court: Yes, sir.

Mr. Watts: If your Honor please, after living thru this lawsuit I sincerely feel that deep in the conscious of the Court there rests a firm and abiding conviction that

this defendant had a fair trial, that the parties have had their day in court and that justice has been done, and it would be a tragedy for the Court after the type of a jury verdict that has come in here to upset the composite wisdom and judgment of twelve American citizens.

The Court: Do you desire to reply to that, Mr. Gooch?

Mr. Gooch: All I can say is I don't think the Associated Press has had a fair day in court coupled with what has transpired here, the time in which it was tried, the obvious discussion of the jury of the news media as a whole, the outlandish award of the amount of damages, the finding of exemplary damages when there was no evidence whatsoever in such a state as to cause me to believe very firmly and maybe just as firmly, if not more firmly than Mr. Watts, that the Associated Press has not had a fair trial, but has been subjected to undue influences, to the sins and alleged errors of the news media elsewhere, to statements that have drifted in as to what has happened in other cases, the overall picture is to me one that the Associated Press has not had the benefit of a fair and impartial trial at the hands of its peers.

The Court: All right, gentlemen.

Reporter's Certificate to foregoing transcript (omitted in printing).

[fol. 2126]

AGREEMENT OF COUNSEL

It is hereby agreed by and between counsel representing the plaintiff and the defendant in the above numbered and entitled cause that the above and foregoing 2125 pages contain a full, true, and correct transcript of all proceedings had and evidence adduced upon the trial of the above numbered and entitled cause taken at the time and place set forth in the captions hereof, together with a full, true, and correct transcript of the proceedings had and evidence adduced upon the hearing of the defendant's motion for new trial; and

We further agree that this record containing eleven volumes may be filed in this case as the Statement of Facts. This the 30th day of November A. D. 1964.

Looney Watts Looney Nichols & Johnson, C. J. Watts; Address, Woodgate, Richards & Condos, Wm. Address, Jr., Attorneys for Plaintiff.
Cantey, Hanger, Gooch, Cravens & Scarborough, Sloan B. Blair, Attorneys for Defendant.

Approved, Chas. J. Murray, Judge presiding.

[fol. 2127]

IN THE COURT OF CIVIL APPEALS FOR THE SECOND
SUPREME JUDICIAL DISTRICT OF TEXAS

No. 16624

THE ASSOCIATED PRESS, Appellant,

vs.

EDWIN A. WALKER, Appellee.

From the District Court of Tarrant County

PER CURIAM. OPINION—July 30, 1965

This is a libel suit. The parties will be designated as they were in the court below or The Associated Press as the A. P. and Walker by name.

The following are the reports of which Walker complained:

"October 2, 1962 'Walker, who Sunday night led a charge of students against federal marshals on the Ole Miss Campus, was arrested on four counts including insurrection against the United States.'

"October 3, 1962 (Editors Note: Former Maj. Gen. Edwin A. Walker, a key figure in the week-end battling over admission of a Negro to the University of Mississippi, was eating dinner Sunday night when he says he was told there was a 'scene of considerable disturbance' on the University of Mississippi Campus. He went there. Here is the story of Van Savell, 21, Associated Press newsman, who was on the scene and saw what happened.)

"By Van Savell: Oxford, Miss., October 3, 1962 (AP) 'Utilizing my youth to the fullest extent, I dressed as any college student would and easily milled among the several thousand rioters on the University of Mississippi Campus Sunday night.

" 'This allowed me to follow the crowd—a few students [fol. 2128] and many outsiders—as they charged federal marshals surrounding the century old Lyceum Building. It also brought me into direct contact with former Army Maj. Gen. Edwin A. Walker, who is now under arrest on charges of inciting insurrection and seditious conspiracy.

" 'Walker first appeared in the riot area at 8:45 p. m., Sunday near the University Avenue entrance about 300 yds. from the Ole Miss Administration Building.

" 'He was nattily dressed in a black suit, tie and shoes and wore a light tan hat.

" 'The crowd welcomed Walker, although this was the man who commanded the 101st Airborne Division during the 1957 school integration riots at Little Rock, Arkansas.

" 'One unidentified man queried Walker as he approached the group. "General, will you lead us to the steps?"

" 'I observed Walker as he loosened his tie and shirt and nodded "Yes" without speaking. He then conferred with a group of about 15 persons who appeared to be the riot leaders.

" 'The crowd took full advantage of the near-by construction work. They broke new bricks into several pieces, took survey sticks and broken soft drink bottles.

" 'Walker assumed command of the crowd, which I estimated at 1,000 but was delayed for several minutes when a

neatly dressed, portly man of about 45 approached the group. He conferred with Walker for several minutes and then joined a group near the front.

"Two men took Walker by the arms and they headed for the Lyceum and the federal marshals. Throughout this time, I was less than six feet from Walker.

"This march toward tear gas and some 200 marshals was more effective than the previous attempts. Although Walker was unarmed, the crowd said this was the moral [fol. 2129] support they needed.

"We were met with a heavy barrage of tear gas about 75 yards from the Lyceum steps and went a few feet further when we had to turn back.

"Before doing so, many of the rioters hurled their weapons—the bricks, the bottles, rocks and wooden stakes—toward the clustered marshals.

"We fled the tear gas and the charging marshals—the crowd racing back to a Confederate soldier's statue near the grove entrance below the Lyceum.

"I went to a telephone. A few minutes later I returned and found Walker talking with several students. Shortly thereafter, Walker climbed halfway up the Confederate monument and addressed the crowd.

"I heard Walker say that Gov. Barnett had betrayed the People of Mississippi. "But don't let up now," he said, "You may lose this battle, but you will have been heard."

"He continued: "This is a dangerous situation. You must be prepared for possible death. If you are not, go home now."

"There were cheers. It was apparent that Walker had complete command over the group.

"By this time, it was nearly 11:00 p. m. and I raced to the telephone again. Upon my return, Walker was calmly explaining the "New Frontier Government" to several bystanders. He remained away from the rioting throughout the next few hours, but advised on several tactics.

"One Ole Miss student queried the former General,

"What can we use to make the tear gas bombs ineffective? Do you know of any way that we can attack and do some damage to those damn Marshals?"

"Walker suggested the use of sand to snuff out the tear gas.

"This stuff works real well, but where can you get it?", he asked.

"At this time the rioters were using a University fire [fol. 2130] truck and fire extinguishers in an attempt to make the tear gas bombs ineffective.

"I left Walker and walked about 100 yards away where Molotov cocktails—gasoline, in bottles with a fuse—were being made.

"Again I left the area for a telephone. As I walked toward a Dormitory with George Bartsch of the Little Rock Associated Press Bureau, we were attacked by Marshals who mistook us for students. We were deluged by tear gas, manhandled, handcuffed and beaten with clubs during a 200 yard walk back to the Lyceum Building.

"Thanks to recognition from Chief Marshal James P. McShane, we were quickly released and given freedom in the Marshals' Headquarters.

"Within minutes rifle and shotgun fire erupted from the rioting crowd and two men—one a French newsman—were killed. We considered ourselves lucky to have been arrested and glad to be behind closed, heavily guarded doors."

The only two statements of the above quoted reports which were complained of by Walker as being libelous and which form the basis of special issues submitted by the Court were: (1) "Walker, who Sunday led a charge of students against federal marshals on the Ole Miss Campus" (October 2, 1962 report), and (2) "Walker assumed command of the crowd" (October 3, 1962 report). For the sake of brevity these two statements will hereinafter be referred to as the "charge" and "command" statements respectively.

In answer to special issues one through four, the jury found that the "charge" statement was not "substantially true", did not constitute fair comment, was not made in good faith and was actuated by malice. It found to the same effect in response to similar issues five through eight concerning the "command" statement.

In answer to issue No. 9 the jury found damages in the sum of \$500,000.00 and having found that A. P. was actuated by malice in answer to special issues Nos. four and eight the jury, in response to special issues Nos. ten and eleven [fol. 2131] found that exemplary damages should be awarded and in the amount of \$300,000.00.

Based upon the verdict of the jury, judgment was entered for Walker and against the A. P. in the sum of \$500,000. The judgment recited that there is no evidence to support the jury's findings of malice and \$300,000 for exemplary damages.

Appellant contends that the court erred in rendering judgment for appellee rather than it because (1) as a matter of law the evidence conclusively established that the "charge" and "command" statements were substantially true; (2) each statement was a fair comment about a matter of public concern published for general information and thus privileged under the provisions of Art. 5432, V. A. C. S.; (3) such statements made without malice are protected by the First and Fourteenth Amendments to the Constitution of the United States; (4) over objection appellee was permitted to testify that he did not assume command; (5) it held as a matter of law that the "charge" and "command" statements were libelous rather than submitting issues as to each; (6) the evidence conclusively established as a matter of law that the "charge" and "command" statements were made in good faith with reference to matters it had a duty to report to its members and thence to the public; (7) the amount of damages found was so grossly excessive as to be patently wrong and unjust and the findings in response to the damage issue No. 9 and to special issues one, two, three, five, six and seven

are so against the weight and preponderance of the evidence as to be manifestly wrong and unjust and thus insufficient to support such answers; and (8) the evidence conclusively established as a matter of law that the jury was guilty of material misconduct which probably resulted in injury to the defendant.

We affirm.

[fol. 2132]

Evidence

In discussing the points relating to the quantity and quality of the evidence we have examined the complaints of the appellant in the light of the Article by Chief Justice Robert W. Calvert entitled, "No Evidence' and 'Insufficient Evidence' Points of Error", 38 Tex. Law Rev. 361 and authorities therein cited.

The evidence considered in its most favorable light in support of the findings of the jury and the judgment of the court is in essence as follows: At approximately 4:00 P. M. of the day in question, a ring of Federal marshals had encircled the Lyceum Building. Walker arrived on the campus about 8:45 P. M. At that time a loud, violent riot was in progress in an area of the campus known as the Circle. A crowd assembled in the Circle area, began taunting and jeering the marshals. By 8:00 P. M. a full scale riot had erupted which was to continue all night, destroy 16 automobiles, kill two people, injure 50. The rioters would form into groups and charge toward the marshals, throwing bricks, bottles, rocks, sticks and other missiles. The rioters attempted to charge the marshals with a fire truck and then with a bulldozer. "Molotov cocktails" were hurled at the marshals. Finally rifle fire erupted. The next morning the campus looked like a battlefield. Soon after his arrival, Walker, after some urging to say a few words, spoke from the steps of the Confederate Monument. While there is some dispute as to what he said, there is testimony that he told the assembled groups that while they had a right to protest that violence was not the answer. He was

"booed" or "jeered" at this time and again when urging a cessation of violence. He and others walked in the direction of the Lyceum Building where the marshals were stationed but he never came closer to the marshals than the monument on the length of a football field. He was there to watch what happened. He wanted a peaceful demonstration as a protest. His presence there was not illegal or [fol. 2133] unlawful. He had the same right to come upon the campus and observe the activity as did the various members of the press who were there to observe and to report. He was one of the crowd. He was not in the forefront, never in front of the crowd. He never hurled any rock, brick or other missile in the direction of the marshals or otherwise. He did not participate in the riot. He never directed or suggested that others do so. He issued no directions nor did he counsel or suggest to others that they charge the marshals or take any other offensive action toward them. The crowd was disorganized. It was a leaderless group. Groups were milling aimlessly. No one, including Walker, made any effort to assume leadership. Walker did not run. He never got out of a slow walk, described as strolling, ambling, or "moseying" along. He never participated in the riot or violence in any manner. He made no effort to incite or move others to action or violence. When asked how to drive the marshals out, he said: "You don't."

Throughout the trial Walker maintained the firm position that because of his opposition to the use of Federal troops within a State, and his personal knowledge of the deviation between the occurrences at Little Rock where he was indeed in command and the newspaper stories of those occurrences, that he was at Oxford to see for himself at first hand what was actually going on. He maintained that he did not assume command of the crowd, did not lead a charge, and did not participate in the rioting. He was present for the sole purpose of observing. The jury saw him, observed his demeanor, heard what he said, and believed him.

"'No evidence' points must, and may only, be sustained when the record discloses one of the following situations: (a) a complete absence of evidence of a vital fact; (b) the court is barred by rules of law or of evidence from giving weight to the only evidence offered to prove a vital fact; (c) the evidence offered to prove a vital fact is no more than a mere scintilla; (d) the evidence establishes conclusively the opposite of the vital fact." 38 Tex. Law Review, pp. 361, 362, *supra*.

Subdivisions (a) and (b) above have no application to the record or the facts in this case. As to (c) we have viewed the evidence in its most favorable light in support of the findings of the jury upon which the judgment of the Court is based, considering only the evidence and the inferences which support the findings and rejecting the evidence and the inferences which are contrary to the findings. In the application of this test we have determined that all of the findings of the jury, upon which the Court based its judgment, are supported by ample evidence. Having reached this conclusion it follows that we find no merit in the appellant's contention that the evidence establishes conclusively the opposite of what the jury found. We find that none of the situations discussed by Judge Calvert under (a), (b), (c) or (d) is disclosed by the record. Further we have concluded from our study and examination of the entire record that the findings of the jury upon which the Court based its judgment is not so contrary to the great weight and preponderance of the evidence as to be clearly wrong or unjust.

Jurors are the exclusive judges of the controverted issues of fact raised by the evidence, of the weight to be given the evidence, and the inferences to be drawn therefrom. They are the exclusive judges of the credibility of the witnesses. "The law does not attempt to tell jurors what amount or kind of evidence ought to produce a belief in their minds. They may believe a witness although he has been contradicted. They may believe the testimony of one witness and reject the testimony of other witnesses.

They may accept part of the testimony of one witness and disregard the remainder." McCormick & Ray, Texas Law of Evidence, § 3; Austin Fire Ins. Co. v. Adams-Childers Co., 246 S. W. 363 (Tex. Com. App. 1923).

"The mere fact that a verdict is against the preponderance of the evidence will not authorize a reviewing court [fol. 2135] to set it aside, if there is some evidence to support it, or evidence that would support a verdict either way. The court of civil appeals will set aside the verdict and findings of a jury only in cases where they are so against such a preponderance of the evidence as to be manifestly unjust or clearly wrong, or where they show clearly that the finding or verdict was the result of passion, prejudice, or improper motive, or in such obvious conflict with the justice of the case as to render it unconscionable." 4 Tex. Jur. 2d, p. 395, § 838, and authorities cited therein.

"Where evidence is conflicting, a reviewing court will not disturb the jury's verdict or findings if there is evidence of probative value to support them, unless the evidence is so overwhelmingly against the verdict or findings as to shock the conscience or show clearly that the conclusion reached was wrong or was the result of passion, prejudice or improper motive.

"The findings on conflicting evidence are usually regarded as 'conclusive,' 'binding,' or 'decisive,' and will be 'adopted' or 'accepted' as the findings of the appellate court, unless some good reason is presented that would justify the court in taking some other view.

"A jury finding on facts will not be set aside because it does not appear to be clearly right; it must appear to be clearly wrong before the appellate court will disturb it.

"The fact that the appellate court would not have found as the jury did is not the test to be applied on appeal. The true test is that made by the jury, on firsthand evidence, adduced before them from living witnesses whose credibility and the weight to be given their testimony were determinable by the jury. Where the jury's findings are in accord with the testimony of different disinterested wit-

nesses, the fact that there is other testimony to the contrary does not authorize the appellate court to overturn the verdict. . . ." 4 Tex. Jur. 2d 390, § 837, and authorities cited therein.

[fol. 2136] In the application of the rules of law and the authorities above referred to, we overrule all points of error relating to the quantity or quality of the evidence supporting the findings of the jury upon which the Court based its judgment.

We find no error on the part of the Court in permitting Walker to testify that he did not assume command of the crowd.

He testified that he became a professional soldier upon completing four years at West Point in 1931 when he was commissioned as a Second Lieutenant. He had combat experience in the Mediterranean, European and Asiatic Theatres during World War II and in Korea. He finally attained the rank of Major General. During the course of the trial Walker testified on several occasions without objection that during the Little Rock matter he took command of the troops, was assigned as commander or that the troops were under his command. In connection with the occasion in question at Ole Miss he was asked if he, "participated in any way in any activity of the crowd that was throwing things at the Marshals?" He answered without objection that he had not participated in any way. He was then asked if he assumed "any command over this crowd." Objection was made on the ground that the answer would be a conclusion on the part of the witness. The Court permitted Walker to answer and he stated, "I certainly did not," and in response to another question he answered without objection that he certainly knew what it meant to assume command. The news item in question had identified Walker as the former Major General who commanded the 101st Airborne Division at Little Rock followed by the statement, "Walker assumed command of the crowd."

The Article in question stated as a fact that Walker had "assumed command of the crowd." We think that Walker, subject of this remark, had the right to deny or affirm the truth of it. We think that the opinion in *Goode v. Ramey*, 48 S. W. 2d 719 (El Paso Civ. App., 1932, re-[fol. 2137] fused), is applicable. Therein it was stated, "We are not prepared to say under the record, as presented here, that it was error to admit the statement of the witness. The issue sought to be proved was not a mixed question of law and fact, but purely a fact question. We think the issue was one upon which a witness in possession of all the facts may properly state his opinion or conclusion to which such facts would fairly lead, notwithstanding the witness' answer may embrace the very issue to be submitted to the jury. The conclusion of the witness is then testified to like any other fact to be considered by the jury for what they may believe it to be worth. *Scalf v. Collin County*, 80 Tex. 514, 16 S. W. 314; *Adkins-Polk Co. v. John Barkley & Co.* (Tex. Civ. App.) 297 S. W. 757; *International & G. N. R. Co. v. Mills*, 34 Tex. Civ. App. 127, 78 S. W. 11."

If we are mistaken in holding that the testimony of Walker was admissible we nevertheless overrule the point of error because we are of the opinion that the error, if any, in admitting the testimony, was harmless within the meaning of Rules 434 and 503, T. R. C. P.; *Dallas Railway & Terminal Co. v. Bailey*, 250 S. W. 2d 379, 151 Tex. 359 (Sup. Ct., 1952).

Fair Comment

The appellant contends that the "charge" and "command" statements constituted fair comment and thus were privileged under the provisions of Art. 5432, V. A. C. S. We find and hold that both the "charge" and the "command" statements were statements of fact and not of comment. "*Walker, who Sunday night led a charge of students against federal marshals . . .*" and "*Walker assumed*

command of the crowd . . .”, (emphasis added) are positive statements of fact. Truth of the statements would constitute a complete defense. Appellant failed in its effort to establish this defense to the satisfaction of the jury which found that neither of the statements were substantially true.

[fol. 2138] In an article on “Fair Comment” by John E. Hallen, 8 Tex. Law Review 41 (1929-30), the author in discussing Art. 5432, V. A. C. S., states: “The 1927 Libel Law provides:

“The publications of the following matters by any newspaper or periodical shall be deemed privileged and shall not be made the basis of any action for libel . . .

“4. A reasonable and fair comment or criticism of the official acts of public officials and of other matters of public concern published for general information.”

“Paragraph 4 was in no way changed by the 1927 amendments and has appeared exactly in that form since 1901.

“ . . . the right of fair comment was not created by the statute. It is well recognized by the common law. Every one has the right to comment on matters of public interest and general concern and within limits is not liable for stating his real opinion on such subjects, however severe the criticism may be. It is immaterial whether or not the criticism is sound, or whether the court or jury would agree with it, so long as it represents the honest opinion of the speaker upon a matter of recognized public interest.

“The statute expressly declares that fair comment by newspapers and periodicals is privileged. But since this right was enjoyed by everyone at common law, the statute gives the newspaper no added privileges. Nor is it to be construed as taking away the common law defense of individuals. . . . (p. 41)

“It should be remembered that there is a distinction between comment or criticism, which is the opinion of the speaker or writer upon certain facts, and the facts upon which that opinion is based. A misstatement of fact cannot

ordinarily be justified by a plea of fair comment. . . . (p. 43) [fol. 2139] "It has already been said that fair comment is a criticism, discussion, or expression of opinion upon existing facts and does not protect against a misstatement of the facts themselves. The question of what should be called fact and what comment is difficult. . . ." (p. 53)

"Texas has swung from its early holding in the *Copeland Case* (*Express Printing Co. v. Copeland*, 64 Tex. 354 (1885)) that an untrue charge of crime, honestly and reasonably made, about a public officer, is privileged, to its present position that such a charge cannot be justified by a newspaper. In following its present doctrine Texas is supported by the weight of authority, and there are strong reasons for its holding." (p. 99)

An article under the heading of "Libel and Slander—Fair Comment—Statements of Opinion" by Tom J. Mays appears in 16 Tex. Law Review 87 (1937-38). He commences with, "A judicial warning to the press with respect to comment and criticism upon matters of public interest is discernible in the recent decision of *Houston Printing Co. v. Hunter*." 105 S. W. 2d 312 (Fort Worth Civ. App., 1937), affirmed 106 S. W. 2d 1043 (Tex. Sup., 1937). The article continues, "That fair comment and criticism upon such matters is qualifiedly privileged is quite generally recognized both at common law and in Texas by statute. On the other hand, where false allegations of fact are made regarding matters of public concern, the courts are not in accord. Perhaps a majority of the courts hold that false allegations of fact are not entitled to immunity even though made in good faith and without malice. . . . Texas is clearly in line with the majority, holding that falsification of the facts is never privileged.

"Although the distinction between statements of fact and statements of opinion or comment has been freely recognized, it is generally conceded that distinguishing the two becomes a difficult problem in many cases." (p. 88)

[fol. 2140] "Most of the cases, it seems, wherein the words are held actionable as statements of fact, have found imputation of malfeasance, misconduct, or corruption in office, or imputations of evil or corrupt motives in the administration of duties. These being treated as statements of fact, then certainly a false imputation of crime committed by a public officer or candidate would be actionable as a statement of fact in Texas. (pp. 89-90) . . .

"It is manifest that some method is needed by which to distinguish between statements of fact and comment; and it is equally certain that no absolute test can be laid down. But it is submitted that more desirable and satisfactory results can be reached." (p. 90)

The author suggests the following test by which to distinguish statements of fact from comment, "Where the statement alleged to be libelous can be reasonably construed by the reader as an expression of opinion only, on the basis of facts either already known to the reader or else reasonably assumed by the person writing the statement to be known to the reader, then it should be regarded as fair comment. Where, however, the statement alleged to be libelous, as reasonably construed, conveys to the reader not only an expression of the writer's opinion, but also certain supposed information, and this information conveyed does not accord with the true facts, it is not comment, but should be treated as a statement of fact."

"Under this test, whether a publication will be treated as a statement of fact and libelous, if untrue, will depend upon the surrounding circumstances of each particular case. Under such a guidance, even an imputation of crime might be held to be merely an expression of opinion and not actionable." (p. 91)

In, "The Press and the Law in Texas" by Norris G. Davis, University of Texas Press, Austin, 1956, it is stated [fol. 2141] that, ". . . the right of fair comment is a weak defense in most libel suits. It is subject to so many limitations that it is seldom completely applicable. There are three groups of limitations. First, the comment must be

limited to matters of public concern. Second, the article must be a statement of opinion—or comment—rather than a statement of fact, a very difficult distinction to make. Finally, the comment must be reasonable and fair and made in good faith, and this limitation is also difficult to define.” (p. 65)

“Even if the subject matter and the person concerned are clearly matters of public concern, there remains two severe limitations. One of these, the requirement that the story or article must be comment, not a statement of fact, has caused by far the most trouble. The separation of comment from factual statements in most stories and articles is extremely difficult, and Court decisions have shown confusion on the point.” (p. 67) “One important rule developed for separation of fact and comment is the theory that imputation of dishonest motives to a public official or imputation of an act constituting a crime under the law is a statement of fact and cannot be considered fair comment.” (p. 68). *San Antonio Light Pub. Co. v. Lewy*, 113 S. W. 574 (CCA of Texas, 1908, Ref.); *Forke v. Homann*, 39 S. W. 210 (CCA of Texas, 1896, ref.). The author in reference to the article by Mays in 16 *Tex. Law Review* 87 (1937-38), states: “One writer who has studied the fair-comment cases in Texas and has found the same confusion illustrated here has offered the following definitions of ‘opinion statements’ and ‘fact statements.’” (p. 73) He then quotes the test suggested by Mays and continues: “Certainly the courts should become aware of the need to distinguish statements of fact from opinion on a less arbitrary basis than is now customary. If the Supreme Court would adopt such a definition as the one quoted above, it would do much toward creating such an awareness. Actual differentiation of fact and opinion would still be difficult, but court decisions would be more just. (p. 74) [fol. 2142] “Actually, it is clear that almost any story, editorial, or other type of news article must be a mixture of statements of fact and comment, even though the written

attempts to confine himself to comment. Any type of comment, in implication at least, must be based on fact; and newsmen know that the most effective comment is that based on startling and important statements of fact. News-men should therefore be prepared to prove the truth of any statement of fact and to rely on fair comment as defense only for the conclusions drawn from these true facts. They should strongly urge the courts also to make the distinction between fact and opinion rather than, as they so often do, plead all defenses to all parts of a story alleged to be libelous." (p. 74)

In our opinion the test suggested by Mr. Mays and favorably commented on by Mr. Davis is a good one. We think that its application to the facts in this case support our holding that the statements involved were statements of fact and that the appellant was not prepared to prove the truth of either statement. The information conveyed was not in accord with the true facts. Reference is made to the complete text of the articles above referred to and the authorities cited therein. See also 36 Tex. Jur. 2d, Libel and Slander, §§ 87, 89, 92 and 171 together with cases cited under each.

We find no merit in appellant's contention that the reports, made without malice, are protected from the claim of libel by the First and Fourteenth Amendments to the United States Constitution. These Amendments prohibit Congress from making laws abridging freedom of speech and of the press and the State from making or enforcing laws of similar nature.

"The interest of the public in obtaining information about public affairs and of the defendant in discussing such matters is often brought directly in conflict with the plaintiff's claim to his own good name, and the law must draw a line between them. . . . (8 Tex. Law Rev. 41, p. 98) [fol. 2143] "It is not true that false and derogatory statements about a man's character are today always actionable. If they were, the whole defense of privilege would be swept

away. Nor is it true that everything may be justified under a defense of free speech or press. These rights as embodied in constitutions and statutes, were designed primarily to prevent interference by the government with a man's talking or writing, and not to do away with responsibility for what was said. If 'Freedom of the Press' always furnished a complete defense there could be no such tort as libel. . . ."
(8 Tex. Law Rev. 56)

"It is submitted that any decision based entirely upon the right to an inviolate character or freedom of speech is unsound. Either doctrine given full sway would annihilate the other. . . ." (8 Tex. Law Rev. 61)

"Articles 5430, 5431, 5432, and 5433, Vernon's Texas Civil Statutes, 1948, clearly declare the policy of this State regarding the question of libel. The law protects the right of a citizen to defend his reputation and good name from libelous publications, and this right is zealously guarded. *Bell Pub. Co. v. Garrett Engineering Co.*, 141 Tex. 51, 170 S. W. 2d 197; *Belo & Co. v. Looney*, 112 Tex. 160, 246 S. W. 777; *Express Pub. Co. v. Keeran*, Tex. Com. App., 284 S. W. 913." *Fitzjarrald v. Panhandle Pub. Co.*, 228 S. W. 2d 503 (Tex. Sup., 1950).

We find no application of the authorities cited by the appellant to the facts of this case.

Libelous Per Se

Did the Court commit error in holding as a matter of law that the "charge" and "command" statements were libelous per se, rather than to submit same to the jury for its determination? We think not. The language contained in the statements is not ambiguous. There can be no doubt as to the meaning of either.

Each of the statements imputed to Walker the crime of [fol. 2144] insurrection against the United States. It is undisputed that the crowd on the Ole Miss Campus was engaged in rioting and by force interfering with the efforts

of U. S. marshals to enforce an executive order of the President of the United States issued under sanction of law and of applicable statutes. Insurrection is punishable by fine or imprisonment or both.

The statements further imputed to Walker responsibility for the death of two men and of the wanton destruction of property, all accomplished by students and others under his leadership and direction. The onslaught of the riotous crowd "led" by Walker who had "assumed command" was such that Van Savell considered he was, "lucky to have been arrested and glad to be behind closed, heavily guarded doors."

It imputed that Walker, who "advised on several tactics," none of which were ever specified, directed or advised on the making and use of the molotov cocktails (gasoline bombs) and other offensive weapons used by the rioters.

"The court should construe the meaning of unambiguous language, pass on its defamatory character, and, instruct the jury accordingly. But where the language is ambiguous or of doubtful meaning there is a question for the jury." 36 Tex. Jur. 2d 496, § 166; p. 482, § 156 of the same text and cases cited under each. *Fitzjarrald v. Panhandle Pub. Co.*, supra.

"To charge a person with or impute to him the commission of any crime for which punishment by imprisonment in jail or the penitentiary may be imposed is slanderous or libelous per se." 36 Tex. Jur. 2d 288, § 7; *H. O. Merren & Co. v. A. H. Belo Corp.*, 228 F. Supp. 515.

"Any written or printed language tending to degrade a person in the estimation of honorable people, or imputing to him disgraceful or dishonorable acts, is libelous per se." 36 Tex. Jur. 2d 297, § 13.

"The language claimed to be defamatory must be taken as a whole. Thus, a newspaper article must be considered in its entirety in determining the sense in which its language is used, and whether the article, or a particular

[fol. 2145] statement therein, is libelous." 36 Tex. Jur. 2d 313, § 27.

"'Libelous per se' means that written or printed words are so obviously hurtful to person aggrieved by them that they require no proof of their injurious character to make them actionable." *Rawlins v. McKee*, 327 S. W. 2d 633 (Texarkana Civ. App., 1959, ref., n.r.e.).

"Defamatory language may be actionable per se, that is, in itself, or may be actionable per quod, that is, only on allegation and proof of special damages. The distinction is based on a rule of evidence, the difference between them lying in the proof of the resulting injury. Language that necessarily, in fact or by a presumption of evidence, causes injury to a person to whom it refers is actionable per se. In other words, the defamatory words must be of such a nature that the court can presume as a matter of law that they will tend to disgrace and degrade the person or hold him up to public hatred, contempt, or ridicule, or cause him to be shunned and avoided. Where the language is actionable per se damages are conclusively presumed and need not be proved." 36 Tex. Jur. 2d 280, § 2.

"To be libelous a publication must be defamatory in its nature, and must tend to injure or impeach the reputation of the person claimed to have been libeled. The language used, taken in connection with the facts and circumstances alleged by way of innuendo, must be reasonably calculated to produce one or more of the results mentioned in the statutory definition; that is, it must have the effect of injuring or tending to injure the person to whom it refers to the extent of exposing him to public hatred, contempt, ridicule, or financial injury, or to impeach his honesty, integrity, or virtue.

"It is not necessary, however, that the language have all the injurious or pernicious tendencies enumerated in the statute; it is actionable if it has any of them. . . .

[fol. 2146] "A publication that tends to subject the plaintiff to public contempt, or that impeaches his integrity or

reputation, is libelous though it does not charge him with a crime.

"The term 'public hatred,' as found in the statutory definition, signifies public or general dislike or antipathy." 36 Tex. Jur. 2d 285, § 6.

Damages

In connection with special issue No. 9 the jury was instructed that it may take into consideration such damages, if any, to the reputation of the plaintiff and such mental anguish, if any, and humiliation, if any, and embarrassment, if any, which plaintiff may have sustained as a direct and proximate result of the statements inquired about. The jury awarded \$500,000.00.

From our investigation and study of the record we are unable to find any legal justification to disturb the award of damages. If any improper influences were present they do not appear from the record. Under the pleadings the appellee sought damages, including exemplary damages, in the sum of \$2,000,000.

"Mental suffering on the part of the person defamed is one of the direct results of a libel or slander. Accordingly, injury to the feelings, humiliation, and anguish of mind are proper elements of compensatory damages, provided they are the direct and proximate result of the defamation. This suffering is classed as general damages, that are presumed to have been sustained, and that, in actions for libel, are recoverable under a general averment, without specific proof that they were incurred, and, by virtue of statute, regardless of whether there was any other injury or damage, even though the publication was not libelous per se." 36 Tex. Jur. 2d 402, § 98.

"The plaintiff is entitled to compensation for injury to his character or reputation caused by the defamation. . . . [fol. 2147] It follows that the jury, in fixing the amount of recovery, may consider the loss of, or injury to, character or reputation, even though there is no proof thereof nor

any proof of good character. . . ." 36 Tex. Jur. 2d 400, § 97.

"In other words, a general allegation of damages will admit evidence of those damages naturally and necessarily resulting from the defamation charged. It is unnecessary to itemize the elements of general damages; rather, the amount may be alleged in the aggregate. Thus, the plaintiff need not aver the nature, character or extent of the mental suffering caused, or even that he thereby suffered any agony, but it is sufficient to aver the damages he sustained by reason thereof. . . ." 36 Tex. Jur. 2d 445, § 126.

"Generally speaking, the damages resulting from a libel or slander are purely personal and cannot be measured by any fixed standard or rule. The amount to be awarded rests largely in the discretion of the jury, or the court in a case tried without a jury, and an appellate court will not disturb the verdict or award unless it appears from the record to be excessive or the result of passion, prejudice, or other improper influence. . . ."

"In fixing the amount the jury may take into consideration the motives of the defendant, and the mode and extent of publication. . . ." 36 Tex. Jur. 2d 405, § 102.

Exemplary Damages

By counter-points the appellee contends the court erred in setting aside the findings of the jury in response to special issues Nos. 4, 8, 10 and 11, which related to malice and exemplary damages.

Issues Nos. 4 and 8 inquired if appellant was actuated by malice, and malice was defined, "you are instructed that by the term 'malice' is meant ill will, bad or evil motive, or that entire want of care which would raise the belief that the act or omission complained of was the result of a [fol. 2148] conscious indifference to the right or welfare of the person to be affected by it."

The appellee had the burden of proving that the appellant's act or acts were such as to fall within the above

definition before he was entitled to a finding of malice and exemplary damages.

The statement of facts consists of eleven volumes and 2126 pages. The entire record has received our close and sustained attention.

In view of all the surrounding circumstances, the rapid and confused occurrence of events on the occasion in question, and in the light of all the evidence, we hold that appellee failed to prove malice as defined, and the trial court was correct in setting aside said findings.

We think there is yet another reason to support the Court's action in disregarding the jury's answers to the issue relating to malice and exemplary damages, namely, the lack of necessary pleadings and proof required under the holdings in *Western Union Tel. Co. v. Brown*, 58 Tex. 170 (Tex. Sup., 1882); *Wortham-Carter Pub. Co. v. Littlepage*, 223 S. W. 1043, p. 1046 (Fort Worth Civ. App., 1920, no writ hist.), and *Fort Worth Elevators Co. v. Russell*, 70 S. W. 2d 397 (Tex. Sup., 1934).

The record leaves some doubt as to whether A. P. is an incorporated or an unincorporated association. It does appear, however, that its composition, the manner in which it functions, and its organizational set-up is more akin to a corporation than not and that the holdings in the above cited cases would be applicable.

We think the record in this case will support our view. Certainly, A. P. is not an individual. Having no mind and being an entity only by a fiction of law, it must be held incapable of entertaining actual or express malice unless the requirements of the holding in *Fort Worth Elevators Co. v. Russell*, *Western Union Tel. Co. v. Brown* and *Wortham-Carter Publishing Co. v. Littlepage*, *supra*, are complied with. A. P. is referred to as a corporation in the appellee's brief.

[fol. 2149]

Jury Misconduct

We find no error in the action of the Court in overruling the appellant's amended motion for new trial because of alleged misconduct of the jury.

During a general discussion of the case a juror remarked that the A. P. (or news media generally) was always hurting someone by the printing of false or malicious reports or words to this effect. There was considerable discrepancy in the testimony of the five jurors called to testify on the motion for new trial as to whether the reference was to the A. P. or to news media generally. It was a casual statement. "Nobody made any comment at all" about it. It is undisputed that it was quickly dropped. Who made the statement, which jurors or how many probably heard it or specifically at what stage in the proceedings the statement was made was not shown. It was dropped and not again mentioned. The jury discussed and answered the issues in order. They were 11 to 1 on the issues preceding those relating to malice and exemplary damages. While discussing these issues a remark was made that the full amount should be awarded because the A. P. had plenty of money and it was mentioned "about the Georgia football coach (Wally Butts) collecting." The jurors were in dispute as to whether the statement concerning Butts was ever made. It is without dispute that the statements, if any, were made after the jury had already found damages in the sum of \$500,000 and were considering the issues on malice and exemplary damages.

The juror who was the last to agree on the \$500,000 was the juror who stopped the discussion as to how much money the Press had. He pointed out that it did not make any difference and was out of order. The matter was promptly dropped. The only answers which could have been influenced or affected by such statements, if any, were those to the issues on malice and exemplary damages and these findings of the jury were disregarded by the Court on other grounds in the rendition of judgment.

In order to justify a new trial under Rule 327, T. R. C. P., the movant has the burden of establishing to the satisfaction of the Court that it reasonably appears from the evidence both on the hearing of the motion and the trial of the case and from the record as a whole that injury probably resulted by reason of the alleged jury misconduct. The appellant failed to meet its burden under this rule.

The trial court in its findings of fact and conclusions of law found that none of the statements singly or collectively induced any juror to change an answer or vote differently than he would otherwise have done. That there was no showing of probable injury to the appellant because of such statements.

"When a trial court hears the testimony of jurors on an issue of misconduct, alleged to have occurred during the jury's deliberation upon its verdict, he is accorded the same latitude in passing upon the credibility of the witnesses and of the weight to be given to their testimony as the jury had upon the trial of the original cause. If there be any inconsistencies or contradictions in the testimony of a witness upon the hearing of a motion for new trial, it rests within the sound discretion of the trial court to harmonize and reconcile such conflicts so far as possible. A juror's testimony upon such hearing may be so contradictory and inconsistent that the trial court in exercising its privilege to pass upon the credibility of the witness may be justified in disregarding his entire testimony. *Carl Construction Co. v. Bain*, 235 Ky. 833, 32 S. W. (2d) 414." *Monkey Grip Rubber Co. v. Walton*, 122 Tex. 185, 53 S. W. 2d 770 (1932).

In our opinion the alleged improper statements, when viewed in the light of the evidence on the motion for new [fol. 2151] trial and on the trial of the case and on the record as a whole, did not probably result in injury to defendant. Rules 327 and 434, T. R. C. P.

Having considered each of the appellant's points of error and the cross-points raised by the appellee and having concluded that each should be they are each and all accord-

ingly overruled, and the judgment of the trial court is affirmed.

Per Curiam

[fol. 2152] Clerk's Certificate to foregoing paper (omitted in printing).

[fol. 2153]

IN THE COURT OF CIVIL APPEALS FOR THE
SECOND SUPREME JUDICIAL DISTRICT OF TEXAS

From the District Court of Tarrant County

(No. 31,741-C)

16624

THE ASSOCIATED PRESS

VS.

EDWIN A. WALKER

JUDGMENT—July 30, 1965

This cause came on to be heard on the transcript of the record and the same having been reviewed, it is the opinion of the Court that there was no error in the judgment. It is therefore ordered, adjudged and decreed that the judgment of the trial court in this cause be and it is hereby affirmed.

It is further ordered that appellee, Edwin A. Walker, do have and recover of and from appellant, The Associated Press, and its surety on its supersedeas bond, Houston Fire and Casualty Insurance Company, the amount adjudged below, with interest thereon at the rate of six per cent per annum from August 3, 1965, together with all costs in this behalf expended, both in this Court and in the trial court, for which let execution issue, and that this decision be certified below for observance.

IN THE COURT OF CIVIL APPEALS FOR THE
SECOND SUPREME JUDICIAL DISTRICT OF TEXAS

17887—16624

THE ASSOCIATED PRESS

VS.

EDWIN A. WALKER

ORDER DENYING APPELLANT'S MOTION FOR REHEARING—
September 17, 1965

This day came on to be heard the motion by appellant for a rehearing in this cause and said motion having been duly considered by the Court is hereby overruled.

[fol. 2154]

IN THE COURT OF CIVIL APPEALS FOR THE
SECOND SUPREME JUDICIAL DISTRICT OF TEXAS,

17888—16624

THE ASSOCIATED PRESS

VS.

EDWIN A. WALKER

ORDER DENYING APPELLEE'S MOTION FOR REHEARING—
September 17, 1965

This day came on to be heard the motion by appellees for a rehearing in this cause and said motion having been duly considered by the Court is hereby overruled.

[fol. 2155] Clerk's Certificate to foregoing papers (omitted in printing).

[fol. 2156]

IN THE SUPREME COURT OF TEXAS
From Tarrant County, Second District
No. A-11,069

THE ASSOCIATED PRESS

VS.

EDWIN A. WALKER

ORDER DENYING APPLICATIONS FOR WRITS OF ERROR—
February 9, 1966

Application of The Associated Press, as well as the conditional application of Edwin A. Walker, for writs of error to the Court of Civil Appeals for the Second Supreme Judicial District having been duly considered, and the Court having determined that same present no error requiring reversal of the judgment of the Court of Civil Appeals, it is ordered that said applications be, and hereby are, refused.

It is further ordered that applicant, The Associated Press, and its surety, Houston Fire & Casualty Insurance Company, and applicant, Edwin A. Walker, each pay all costs incurred on their respective applications for writs of error.

IN THE SUPREME COURT OF TEXAS
From Tarrant County, Second District
No. A-11,069

THE ASSOCIATED PRESS

VS.

EDWIN A. WALKER

ORDER DENYING MOTION FOR REHEARING OF APPLICATION FOR
WRIT OF ERROR—March 23, 1966

Motion of The Associated Press for rehearing of its application for writ of error having been duly considered, it is ordered that such motion be, and hereby is, overruled.

[fol. 2157] Filed in Court of Civil Appeals for Second Supreme Judicial District of Texas, March 30, 1966—Lida Swanson, Clerk.

[fol. 2158] Clerk's Certificate to foregoing transcript (omitted in printing).

[fol. 2159]

SUPREME COURT OF THE UNITED STATES

No. 150—October Term, 1966

THE ASSOCIATED PRESS, Petitioner,

v.

EDWIN A. WALKER.

ORDER ALLOWING CERTIORARI—October 10, 1966

The petition herein for a writ of certiorari to the Court of Civil Appeals of the State of Texas, Second Supreme Judicial District and/or the Supreme Court of the State of Texas is granted and one and one half hours are allotted for oral argument.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.